

- D. Further, the President or designee shall continue to address the recruit classes at a mutually agreeable time.

ARTICLE 4 - VISITATION

The Employer agrees that representatives of the Local Union, regional representatives, or international representatives, shall have reasonable access to any work site at anytime during working hours to conduct Union business as long as such visits will not interfere with the conduct of normal Employer's business and the employee's work. Representatives shall report to the supervisor or designee upon entering a facility.

The employer shall ensure that representatives of the Local Union are issued access cards or other such devices for the purpose of gaining entry to electronically secured facilities where bargaining unit employees are assigned. The Local Union Executive Board, which includes the Principal Officers and District Representatives, shall receive access to any worksite where bargaining unit employees are assigned.

The County agrees to provide **electronic** access to the Executive Office Building (EOB), including the parking garage, for the Union President, 1st Vice President and 2nd Vice President for Labor/Management related business held at the Executive Office Building.

The County agrees to provide electronic access to the Public Safety Headquarters building for the Union President, 1st Vice President and 2nd Vice President for Labor/Management related business held at the Public Safety Headquarters Building.

The Union will provide the County a list of all Principal Officers and District Representatives of the Local Union at least once a year. This list will usually be provided in July and at any other time there is a change in the Executive Board.

ARTICLE 5 - MANAGEMENT RIGHTS

This agreement shall not impair the right and responsibility of the employer to:

- A. Determine the overall budget and mission of the Employer and any agency of County government.
- B. Maintain and improve the efficiency and effectiveness of operations.
- C. Determine the services to be rendered and the operations to be performed.
- D. Determine the overall organizational structure, methods, processes, means, job classifications and personnel by which operations are to be conducted and the location of facilities.
- E. Direct and supervise employees.
- F. Hire, select and establish the standards governing promotion of employees and classify positions.
- G. Relieve employees from duties because of lack of work or funds, or under conditions when the Employer determines continued work would be inefficient or nonproductive.
- H. Take actions to carry out the mission of government in situations of emergency.
- I. Transfer, assign and schedule employees.
- J. Determine the size, grades and composition of work force.

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- K. Set the standards of productivity and technology.
- L. Establish employee performance standards and evaluate employees, except that evaluation procedures shall be a subject for bargaining.
- M. Make and implement systems for awarding outstanding service increments, extraordinary performance awards and other merit awards.
- N. Introduce new or improved technology, research, development and services.
- O. Control and regulate the use of machinery, equipment, and other property and facilities of the Employer, subject to the Employer's duty to bargain matters affecting the health and safety of employees.
- P. Maintain internal security standards.
- Q. Create, alter, combine, contract out or abolish any job classification, department, operation, unit or other division or service, provided that no contracting of work which will displace employees may be undertaken by the Employer unless ninety (90) days prior to signing the contract, or such other date of notice as agreed by the parties, written notice has been given to the certified representative.
- R. Suspend, discharge or otherwise discipline employees for cause, except that, subject to Charter Section 404, any such action may be subject to the grievance procedure set forth in this collective bargaining Agreement.
- S. Issue and enforce rules, policies and regulations necessary to carry out these and all other managerial functions which are not inconsistent with this law, Federal or State law or the terms of this collective bargaining Agreement.

ARTICLE 6 - ANNUAL LEAVE

Section 6.1 Definition

Annual leave is earned, paid leave granted to eligible employees for vacations and other personal use.

Section 6.2 Eligibility

All bargaining unit employees are eligible to earn annual leave.

Section 6.3 Leave Year

The leave year begins with the first full payroll period of a calendar year and ends with the payroll period in which December 31 falls. Prior to each December 31, employees shall indicate their preferences for annual leave to be taken during the following leave year and they shall be informed by MCFRS as to whether their selections are approved or disapproved. For employees covered by this agreement, annual leave selections shall be awarded on the basis of seniority.

Section 6.4 Leave Accounting Period

The leave accounting period must be established by the Chief Administrative Officer.

Section 6.5 Accrual Rates

- A. Bargaining unit employees with less than 3 years of County service earn annual leave at the rate of 120 hours per leave year. Full-time employees with at least a minimum of 3 years, but less

than 15 years of County service earn annual leave at the rate of 160 hours per leave year. Full-time employees with 15 years or more of County service earn annual leave at the rate of 208 hours per leave year.

- B. Notwithstanding accrual rates established for employees under this section, as of January 3, 1988, bargaining unit employees assigned to a 2,496-hour work year earn annual leave at the following rates:
1. Less than 3 years County service - 144 hours per leave year.
 2. With at least a minimum of 3 years but less than 15 years of County service - 192 hours per leave year.
 3. With 15 years or more of County service - 249 hours per leave year.
- C. Further, Bargaining unit employees assigned to a 2,184-hour work year earn annual leave at the following rates:
1. Less than 3 years County service - 126 hours per leave year.
 2. With 3 years but less than 15 years of County service - 168 hours per leave year.
 3. With 15 years or more of County service - 219 hours.

Section 6.6 Changes in Accrual Rates

Annual leave accrual rate changes are effective the first day of the leave accounting period in which the employee completes 3 years or 15 years of County service.

Section 6.7 Maximum Accumulation

Maximum accumulation amounts apply only to the amount of annual leave that may be carried over from one leave year to the next and do not limit accumulated leave balances during the leave year.

- A. An employee who began work on or before December 31, 1956, may accumulate annual leave up to a maximum of 560 hours, provided the employee has been continuously employed since that date. An employee assigned to a 2,496 or 2,184-hour year and who meets this condition may accumulate annual leave up to a maximum of 672 or 588 hours respectively. An employee who began work on or before December 31, 1956, who subsequently has used accumulated annual leave in excess of 320 hours for the purposes of purchasing retirement service credits may only accumulate annual leave up to a maximum of 320 hours. Bargaining unit employees assigned to a 2,496 or 2,184-hour work year and who meets this condition may accumulate annual leave up to 384 or 336 hours respectively.
- B. An employee hired on or after January 1, 1957, but prior to July 1, 1972, may accumulate annual leave up to a maximum of 320 hours. A bargaining unit employee assigned to a 2,496 or 2,184-hour work year and who meet this condition may accumulate annual leave up to 384 or 336 hours, respectively.
- C. An employee hired on or after July 1, 1972, may accumulate annual leave up to a maximum of 240 hours. A bargaining unit employee assigned to a 2,496 or 2,184-hour work year and who meets this condition may accumulate annual leave up to 288 or 252 hours, respectively.

Section 6.8 Annual Leave in Excess of Maximum Accumulation

All accumulated leave in excess of the authorized maximum is forfeited at the end of leave year. All annual leave forfeited at the end of a leave year for being in excess of an employee's maximum allowable accumulation must be credited to that employee's accumulated sick leave. Subject to budget limitations

and the availability of funds, an employee may elect to be paid up to 50 percent of the excess leave accrued in the current leave year (at the employee's rate of pay at the end of the year) and transfer the remaining excess leave to the employee's accumulated sick leave. However, if management has denied an employee the opportunity to use leave in excess of the maximum allowable accumulation during that leave year, that amount may be carried over for a period of one year, even if in excess of the maximum allowable accumulation during that leave year, but must be forfeited to sick leave if not used during that period.

Section 6.9 Disposition of Accumulated Annual Leave at Separation from County Service

Upon leaving the County service, an employee must receive a lump-sum payment at the employee's current rate of pay for the total accrued annual leave as of the date of separation, less any indebtedness to the County Government. In the event of an employee's death, the employee's estate or designated beneficiary or beneficiaries, if permissible by law, must be paid for all accrued annual leave. The designated beneficiary must be as specified by the employee or as designated under the Employee's Retirement System of Montgomery County, if not named specifically.

Section 6.10 Transfer of Annual Leave to Another Agency

An individual who resigns employment with one County or bi-County agency to accept employment with another County or bi-County agency, without a break in service, may transfer accumulated annual leave to the new employing agency subject to any limitation that agency may have, provided there is a signed agreement of reciprocity between the two agencies.

Section 6.11 Use of Annual Leave for FMLA Purposes

Employees must be allowed to use accrued annual leave for any Family and Medical Leave Act purpose in accordance with Article 11 of this Agreement.

Section 6.12 Adjustment to Leave

Whenever an employee is reassigned to a different work schedule that results in a change in the average number of hours in his/her workweek, the annual leave which the employee has accumulated immediately preceding the change in his/her work schedule shall be adjusted by multiplying the employee's accumulated leave balance by the following conversion factor, as appropriate:

FROM WORK WEEK	TO WORK WEEK	CONVERSION FACTOR
48	40	0.833
40	48	1.200
42	40	0.952
40	42	1.050
48	42	0.875
42	48	1.143

Section 6.13 Annual Leave Slots

The number of vacation leave slots for 24-hour shift workers in the Division of Operations (field staffing) per day shall be equal to twelve percent (12%) of the sum of the average number of employees per shift as of October 1st and one-third of any career recruit class in session on October 1st. The number of vacation leave slots for day workers in the Division of Operations (field staffing) per day shall be equal to twelve percent (12%) of the day worker complement on October 1st.

The number of casual leave slots for 24-hour shift workers in the Division of Operations (field staffing) per day shall be equal to nine percent (9%) of the sum of the average number of employees per shift on October 1st and one-third of any career recruit class in session on October 1st. The number of

casual leave slots for day workers in the Division of Operations (field staffing) per day shall be equal to nine percent (9%) of the day work complement on October 1st.

The number of daily leave slots, both vacation and casual, shall be in effect for an entire calendar year, and shall be calculated each fall, prior to the time that vacation leave is selected for the next calendar year. Any fractional numbers resulting from the annual calculation shall be rounded up to the next whole number.

Section 6.14 Casual Leave Procedure:

- A. Casual leave shall be canceled **by the requesting employee** no less than 12 hours before the affected dayshift or 10 hours before the affected nightshift; **except, however, if an employee's leave request is approved less than 12 hours before the affected dayshift or less than 10 hours before the affected nightshift, the employee may cancel such leave up to 1 hour after accepting official notification that his/her leave request has been approved. In the event that an employee has assumed the responsibilities of a minimum staffing position prior to official notification of their casual leave, that employee must not leave prior to being relieved.**
- B. The employee requesting casual leave shall request such leave not earlier than thirty (30) days before the requested date, and not later than 2100 hours on the day before the leave day being requested. An employee may contact the scheduler by telephone to determine leave availability at any time. If leave is available and granted within the above parameters, the scheduler will make appropriate TeleStaff entries and notifications. Requests for casual leave will be granted or denied by the Scheduler via telephone or TeleStaff, in accordance with the established number of leave slots available.
- C. Casual leave may be approved after the beginning of a shift if leave slots are available, provided that service needs are met. Personnel being granted "same-day casual leave" must remain on duty at the work-site until their relief arrives.
- D. If leave slots are available and the casual leave request is granted, leave will be granted on a first-come, first-served basis.

Section 6.15 Personal Leave Days

At the beginning of each leave year, each bargaining unit member assigned to a 2,496-hour work year shall be credited with 48 hours of personal leave to be used for any purpose. Each bargaining unit member assigned to a 40- or 42-hour work week shall be credited with a prorated number of hours of personal leave. The days must be used in full shifts (no partial shifts) and must be used during the leave year. All unused days are forfeited at the end of the leave year. Requests to use personal leave days will need to be scheduled and authorized in the same manner as annual leave is scheduled and approved. Personal leave benefit will be pro-rated for part-time employees. This additional personal leave will be taken and used without additional personnel costs or use of overtime to backfill for unit members on personal leave.

ARTICLE 7 - SICK LEAVE

Section 7.1 Definition

- A. Sick leave is earned, paid leave granted to eligible employees for periods of absence because of personal illness, injury, medical quarantine, medical, dental or optical examinations and treatments, or any temporary disability caused or contributed to by pregnancy, miscarriage, or child-birth.

- B. An employee may also use sick leave for an illness, injury, medical quarantine, medical, dental, or optical examinations and treatments in the immediate family or for the purpose of attending to the immediate family at the time of birth or adoption of a child, provided the time used is not for a period more than the amount of sick leave earned in any calendar year, except an employee may request a waiver of this limitation from the Chief Administrative Officer or designee.
- C. Parents of a newborn or newly adopted child may use a sick leave amount in excess of that which is earned in any calendar year when such leave is taken in connection with parental leave as provided in Article 8 of this Agreement.
- D. Immediate family is defined in this Article as follows:
- the parent, stepparent, legal guardian¹, grandparent, spouse, domestic partner², brother or sister, child or stepchild and,
 - the parent, grandparent, child, grandchild or legal guardian of the bargaining unit employee's spouse or domestic partner.

The Chief Administrative Officer or designee may approve an employee's use of sick leave to care for an individual who lives with the employee in the employee's residence or for an individual who is either related to the employee by blood or has a close association with the employee equivalent to a family relationship.

Section 7.2 Eligibility

All bargaining unit employees are eligible to earn sick leave.

Section 7.3 Leave Year

The leave year begins with the first full pay period of a calendar year and ends with the payroll period in which December 31 falls.

Section 7.4 Leave Accounting Period

The leave accounting period must be established by the Chief Administrative Officer.

Section 7.5 Accrual Rates

Bargaining unit employees assigned to a 2,496-hour work year earn 144 hours of sick leave per year. Bargaining unit employees assigned to a 2,184-hour work year earn 126 hours of sick leave per year. Notwithstanding the accrual rate provided for above, employees in the bargaining unit who work a schedule of 2,080 hours in the work year earn 120 hours of sick leave per year.

Section 7.6 Maximum Allowable Accumulation

Sick leave may be accumulated without limit.

Section 7.7 Sick Leave Use

A. Procedure

The parties agree that the following sick leave usage procedure will apply.

¹ The term "legal guardian" refers to the person or persons to whom the care of the bargaining unit employee was assigned by court or other judicial body before the bargaining unit employee reached the age of majority.

² The term "domestic partner" is defined in Section 40.4 of this Agreement.

During any consecutive twelve (12) month period, an employee who is scheduled to work 2,496 hours per year and who is unable, due to illness or injury, to report to work for more than seventy-two (72) consecutive work hours; an employee who is scheduled to work 2,184 hours per year and who is unable, due to illness or injury, to report to work for more than forty-eight (48) consecutive work hours; an employee who is scheduled to work 2,080 hours per year and who is unable, due to illness or injury, to report to work for more than forty (40) consecutive work hours; must obtain documentation from a physician or other licensed healthcare provider³ confirming the employee was under the physician's or other licensed healthcare provider's care. Such documentation must be submitted upon the employee's return to work.⁴

1. The medical documentation obtained from the physician or other licensed healthcare provider will be forwarded to the Battalion Chief via the Station Officer upon the employee's return to work. The Battalion Chief may require the employee to obtain medical clearance from the Fire Rescue Occupational Medical Section if he or she believes that the employee is not medically fit for full duty. An appointment with the Fire Rescue Occupational Medical Section will be scheduled via the Battalion Chief. The medical documentation from the Fire Rescue Occupational Medical Section will be forwarded to the Battalion Chief via the Station Officer, when the employee returns to their work site.
2. During any consecutive twelve (12) month period, an employee on a "24/48" work schedule may incur four (4) incidents of sick leave use (family or personal) without obtaining and submitting to the Employer medical documentation from a physician or other licensed healthcare provider. When the employee has reached the above-described limitation on the use of sick leave (family or personal) without obtaining and submitting medical documentation, the Employer agrees that the Battalion Chief will:
 - a. counsel the employee that additional sick leave without the appropriate documentation from a physician or other licensed healthcare provider may result in the employee being placed on sick leave restriction.
 - b. If the employee is placed on sick leave restriction, the Employer may:
 - i. refuse to approve additional sick leave without the appropriate medical documentation.
 - ii. If the employee uses additional sick leave and fails to obtain and submit the appropriate medical documentation, the Employer may charge the employee AWOL for the time the employee was absent from work.
3. When an employee on a "24/48" work schedule and on sick leave restriction uses sick leave without providing documentation from a physician or other licensed healthcare provider, the employee may be subject to:
 - a. being charged AWOL for the period of time that the employee was absent from work; and/or,
 - b. appropriate disciplinary action;
4. An employee on any other shift may be restricted from using sick leave after a like number

³ The term "other licensed healthcare provider" does not include those individuals licensed through MIEMSS.

⁴ The documentation requirement discussed in Section 7.7.A. shall also apply to sick leave use for the care of "immediate family," as that term is defined in Section 7.1.D. of this Agreement.

of incidents uses, absent documentation. (For example: employees assigned to a forty (42)-hour work week may be restricted from further sick leave use after the employee incurs five (5) incidents of sick leave use (family or personal) without obtaining or submitting medical documentation. Employees on a forty (40)-hour work week may be restricted from further sick leave use after the employee incurs five (5) incidents of sick leave use (family or personal) without obtaining or submitting medical documentation.

5. Battalion Chiefs may require an employee to provide medical certification from a physician or other licensed healthcare provider any time the Employer has reasonable cause⁵ to believe that an employee is misusing/abusing sick leave. Examples of sick leave misuse/abuse may include:
 - a. repeated use of sick leave after a request for annual/compensatory leave has been denied;
 - b. repeated use of sick leave on the shift before or the shift after a Kelly day, holiday or weekend day;
 - c. use of excessive amounts of sick leave;
 - d. use of sick leave in excess for that which is earned per calendar year;
 - e. repeated use of sick leave when the work schedule is heavy, undesirable or involving special projects or functions; or
 - f. engaging in outside employment activities while using sick leave without prior approval.

Section 7.8 Subrogation

When the accident, injury, or illness for which sick leave is used was caused under circumstances creating a legal liability in a third party, the County has the right of subrogation and the right to enforce the legal liability of the third party. Whenever the employee is reimbursed for sick leave by the legally liable third party, the County must be repaid for all sick leave used, less attorney's fees. Upon repayment of monies, the sick leave used must be re-credited to the employee's leave account.

Section 7.9 Disposition of Accumulated Sick Leave at Separation from County Service

Accumulated sick leave must be forfeited upon separation for any purpose other than retirement. Accumulated sick leave is creditable for retirement purposes as provided in the employee's retirement system of Montgomery County. Unused sick leave of any employee separated from service that is subject to forfeiture shall be placed in a sick leave donation bank to be maintained by MCCFFA for the use of employees in need of sick leave donations. Any employee who suffers an occupational illness or injury while working either a 2,496-hour or 2,184-hour per year schedule and who is placed on light duty because of that occupational illness or injury shall have his/her sick leave calculated towards his/her retirement benefits as if he/she were still working a 2,496-hour or 2,184-hour per year schedule, as applicable.

Section 7.10 Reinstatement or Transfer of Accumulated Sick Leave

⁵ For purposes of this Section, the term "reasonable cause" means that the Employer has obtained information or has observed that the employee is abusing/misusing sick leave. The application of "reasonable cause," as set forth herein, will not serve to delay or deter the Employer from taking necessary action to address the abuse or misuse of sick leave. Hence, the Employer need not demonstrate at the outset that it has obtained information or that it has observed that the employee is abusing or misusing sick leave. Rather, "reasonable cause," as herein applied, means that the Employer agrees not to require an employee to furnish medical certification from a physician or other licensed healthcare provider unless it has a basis to believe that the employee is abusing or misusing sick leave.

- A. Reinstatement. Employees who return to County service within two years must be re-credited the accumulated sick leave forfeited at the time of separation.
- B. Transfer. An individual who resigns employment with one County or bi-County agency to accept employment with another County or bi-County agency without a break in service may transfer all accumulated sick leave to the new employing agency, subject to limitations that agency may have, provided there is a signed agreement of reciprocity between the two agencies.

Section 7.11 Use of Sick Leave for FMLA Purposes

Employees must be allowed to use accrued sick leave for the following Family and Medical Leave Act purposes in accordance with Article 11 of this Agreement:

- A. To care for the employee's newborn or newly adopted child, provided that the leave qualifies as parental leave under Article 8 of this Agreement;
- B. To care for the employee's newborn or newly adopted child, if the leave does not qualify as parental leave under Article 8 of this Agreement, subject to the limitations on family sick leave in Section 7.1 of this Agreement;
- C. To obtain prenatal care for the employee;
- D. To care for, or arrange care for, any of the following with a serious health condition: the employee's spouse, a minor child, adult son or daughter incapable of self care, or parent, subject to the limitations on family sick leave in Section 7.1;
- E. Because of the employee's serious health condition that makes the employee unable to perform the functions of the employee's position.

Section 7.12 Procedure When an Employee is Relieved From Duty

The procedure outlined below will be followed whenever a supervisor relieves an employee from duty because of a perceived illness or injury:

- A. The employee may choose to be placed on approved sick leave, or the employee may decline sick leave; if the latter occurs, then
- B. Upon approval of the Career Duty Operations Chief, the employee's supervisor will direct the employee to report to the Fire/Rescue Occupational Medical Section (FROMS). If FROMS is closed, the employee will be directed to the nearest Hospital Emergency Room or Walk-in Clinic for an examination. In addition, if the employee must go to an emergency room or clinic, the employer shall pay all costs associated with the examination.
- C. If recommended by the FROMS or another physician, the Career Duty Operations Chief or Division Chief may relieve the employee from duty. The employee may elect to use approved sick leave or leave without pay for the remainder of that shift only.

Section 7.13 Adjustment to Leave

Whenever an employee is reassigned to a different work schedule that results in a change in the average number of hours in his/her workweek, the sick leave which the employee has accumulated immediately preceding the change in his/her work schedule shall be adjusted by multiplying the employee's accumulated leave balance by the following conversion factor, as appropriate:

FROM WORK WEEK	TO WORK WEEK	CONVERSION FACTOR
48	40	0.833
40	48	1.200
42	40	0.952
40	42	1.050
48	42	0.875
42	48	1.143

Section 7.14 Sick Leave Donor Program

The Sick Leave Donor Program allows bargaining unit employees who have achieved merit system status to give additional sick leave to eligible County employees who have exhausted all types of accrued leave.

A. Approval of Sick Leave Donations; Employee Eligibility to Receive Sick Leave Donations

1. The Fire Chief or his designee (other than the employee's supervisor), will approve a sick leave donation for an employee who reports to the supervisor, if the employee:
 - a. has completed their probationary period and achieved bargaining unit status;
 - b. has an extended illness or injury, that causes the employee to be unable to work for more than seven (7) consecutive calendar days; **or has an immediate family member who has an extended injury or illness, subject to the limitations provided in Section 7.1B above.**
 - c. has requested leave;
 - d. has used all accrued annual leave, sick leave, personal leave, and compensatory time; and,
 - e. has submitted the following to the department head or his or her designee (or another has submitted the following on the employee's behalf);
 - (i) a completed Sick Leave Donation Form, which lists the names of the employees who are willing to donate sick leave and the amount of leave to be donated by each;
 - (ii) medical documentation from a physician or other licensed healthcare provider stating that the bargaining unit employee is ill or injured and is unable to report to work **or medical documentation that an immediate family member (as defined in section 7.1), has an extended illness or injury.**
2. In extenuating circumstances, the Fire Chief or his or her designee, may waive the seven (7)-day waiting period for an employee. Extenuating circumstances may include, but are not limited to:
 - a. an employee who has used all of his or her leave for the employee's or an immediate family member's serious illness or injury
 - b. The Fire Chief or his designee may, in his discretion, waive the seven (7)-day waiting period on the basis of any other "extenuating circumstance" or appropriate consideration.
3. In a leave year, the Fire Chief or his designee may approve up to 1248 Hours (2496-Hour Work Year), 1092 (2184-Hour Work Year) and 1040 Hours (2080-Hour Work Year) of donated leave for a bargaining unit employee.

4. The Fire Chief or his designee must not approve a leave donation for an employee who:
 - a. has given written notice of retirement or resignation, or has received written notice of separation from County employment;
 - b. is suspended, during the period of suspension; or
 - c. is taking a leave of absence that is unrelated to an extended illness or injury.
5. The Fire Chief or his designee must not approve a leave donation for an employee who is eligible for, or is currently receiving, disability leave or another benefit under a County or State program that provides full income maintenance payments for illness or injury. However, if the benefit from the County or State program is for medical expenses, and not compensation for lost wages, the supervisor may approve a sick leave donation for the employee.
6. If an employee is using donated sick leave, and it is later determined that the employee is to receive workers' compensation and/or a service-connected disability retirement for the injury or illness for which he or she is using the donated sick leave, the donated sick leave he or she used, as well as any donated sick leave he or she has not yet used, will be returned to the donor(s) not later than two pay periods after the County determines or a court of competent jurisdiction orders the payment of workers' compensation.
7. Donated leave allotments will be provided: to employees who work a 2,496-hour work year in amounts of up to one hundred and ninety-two (192) hours; to employees who work a 2,184-hour work year in amounts of up to one hundred and sixty-eight (168) hours; and, to employees who work a 2,040-hour work year in amounts up to one hundred and sixty (160) hours, until such time as the aforementioned donations have been depleted or the documented return to work date has been reached, whichever comes first.

B. Employee Eligibility to Donate Sick Leave

1. A full-time employee donor must keep a balance of at least 96 Hours (2,496-Hour Work Year), 84 hours (2,184-Hour Work Year), and 80 hours (2,080-Hour Work Year) of sick leave after donating sick leave.

Nothing shall preclude a Montgomery County Fire and Rescue Service bargaining unit employee from receiving sick leave donated by any eligible County employee.

Additionally, nothing shall preclude a Montgomery County Fire and Rescue Service bargaining unit employee from donating sick leave to any eligible County employee.

2. An employee-donor may specify the employee-donee to whom he or she donates sick leave and the precise number of hours of sick leave he or she donates. The Employer will honor such specifications, consistent with the provisions of this Article.

ARTICLE 8 - PARENTAL LEAVE

Section 8.1 Grants of Parental Leave

A bargaining unit employee must be allowed to use up to 864 hours if working a 2,496- hour work year, 756 hours if working a 2,184-hour work year or 720 hours if working a 2,080- hour work year, of any combination of sick, annual, or compensatory leave and leave without pay during any twenty-four month period to care for:

- A. A newborn child of the employee, or
- B. A newly adopted child of the employee.

Section 8.2 Use of Parental Leave

All leave taken under this section shall be consistent with established policy and procedure and:

- A. Must be used within 12 months of the birth of the child or placement with the employee for adoption.
- B. At the election of the employee, may be used on a continuing basis.
- C. With the approval of the supervisor, may be used:
 - 1. Under a method involving a reduced workday or workweek,
 - 2. On an intermittent basis, or
 - 3. Any combination thereof.
- D. May be in addition to any other leave taken under these regulations.
- E. Is subject to a 30-day advance notice requirement.
- F. The use of parental leave under this section for a Family and Medical Leave Act (FMLA) purpose will be considered to be FMLA leave and count towards the FMLA entitlement of 12 weeks of leave in a leave year. However, compensatory time used as parental leave cannot be counted as FMLA leave.
- G. An employee who has exhausted the parental leave provided under this section (720 to 864 hours in a 24-month period), may still be entitled to use up to 12 weeks of FMLA leave in a leave year in accordance with Article 11 of this Agreement.

Section 8.3 Relation to Other Benefits

A merit system employee who uses leave without pay under this section will retain all health and life insurance benefits for the entire period.

Section 8.4 Limitations on Sick Leave Usage

- A. Any use of sick leave for either medical reasons or for the purpose of attending the immediate family at the time of birth or adoption of a child must be deducted from the 720, 756, or 864 hours, as applicable.
- B. Sick leave donations may not be used to cover absences occurring under this section.

ARTICLE 9 - ADMINISTRATIVE LEAVE

Administrative leave is paid leave which the Chief Administrative Officer, or designee may grant to:

- A. An employee or groups of employees in cases of:
 - 1. General or public emergency or
 - 2. An unhealthy or dangerous situation in a County facility.
- B. An employee who is relieved of duties pending:
 - 1. An investigation of incidents or charges,

2. Removal, or
 3. A determination as to fitness for continued duty.
- C. An employee for attendance at officially approved meetings or conferences.
 - D. An employee who is called to jury service, or who is subpoenaed as a witness in a civil or criminal court case or in an administrative agency hearing. Administrative leave will not be granted, however, to an employee who is subpoenaed to appear in a court or administrative case in which the employee is a party, unless the case is related to the employee's official duties. In the event an employee is commanded to appear at a court or administrative agency proceeding (e.g., trials, hearings or discovery proceedings) for a case that is not related to the employee's official duties, or is a party to the case and whose presence is necessary at such proceeding, the employee shall be permitted to use his/her own leave but the use of this leave will not count toward the number of leave slots (annual or casual) in Section 6.13 of the agreement.
 - E. An employee under other circumstances as the Chief Administrative Officer determines necessary and in the best interest of the County government.
 - F. An employee may be granted paid leave for a maximum of three (3) consecutive calendar days, except employees working a "day work" schedule may be granted paid leave for a maximum of three (3) consecutive work days, in the event of a death in the immediate family (i.e. parent, stepparent, spouse, brother or sister, child or stepchild, grandchild, spouse's parent, grandparent, spouse's grandparent, legal guardian, or any other relative living with the employee at the time of death). The Chief Administrative Officer or designee may approve administrative leave for an employee who has experienced the death of an individual who was related to the employee through blood or affinity and who had a close association with the employee that was the equivalent of a family relationship. The Chief Administrative Officer may approve administrative leave for other relatives; and
 - G. An employee, who is a member of a reserve component of the armed forces of the United States, shall be granted paid administrative leave for one annual two-week training purpose not to exceed 15 days annually.
 - H. Application for administrative leave for military training should be made immediately upon receipt of orders for active duty for training in accordance with procedures established by the Chief Administrative Officer.
 - I. The Chief Administrative Officer may permit waiver of the limitation when two annual training periods are scheduled in one calendar year.
 - J. An employee who is a member of a reserve component of the armed forces of the United States is not entitled to paid administrative leave for purposes of attending monthly drills. The employee may use annual or compensatory leave or arrange career stand-by in order to attend these monthly drills. Career stand-by will be approved liberally contingent on operational needs. When no leave slots are available, annual or compensatory leave will be granted above the leave slot cap for the purpose of attending monthly drills. When leave slots are available, leave taken to attend monthly drills will count towards the leave slot cap.
 - K. A full-time or part-time employee may use organ donor leave with pay for up to 7 days in any 12-month period to serve as a bone marrow donor; and up to 30 days in a 12-month period to serve as an organ donor. Organ donor leave must be approved by the MCFRS Fire Chief. Organ donor leave must be granted in addition to any annual leave, sick leave, personal days, or paid

time off that the employee is otherwise entitled to. The employee must provide medical documentation of the bone marrow or organ donation before organ donor leave is approved.

- L. An employee whose family member (i.e., spouse, child, brother or sister) returns to the United States following military deployment to a foreign location shall be granted, upon request, paid accrued leave above the cap for two consecutive work shifts. Such leave shall commence no later than five calendar days following the relative's return, and must be granted in addition to any annual leave, sick leave, personal days or any other paid time off that the employee is entitled to.

ARTICLE 10 - DISABILITY LEAVE

Section 10.1 Service Connected Injury

Upon certification of an employee's on-duty Career Duty Operations Chief, approved by the Fire Chief or designee, and based on written certification by an employee's physician, if presented, that an employee is absent due to service-connected injury/illness, the employee shall immediately be placed on administrative leave until a determination concerning eligibility for compensation has been made by the Division of Risk Management, Department of Finance. It is further agreed that, if the disability status is denied by the Division of Risk Management, the employee's pay or leave balance shall be adjusted.

Section 10.2 Disability Leave

A. Eligibility

An employee who is temporarily disabled in the line of duty and unable to perform normal duties or an alternate duty assignment must be paid the difference between normal County salary and the amount received under the workers' compensation law for a maximum period of eighteen (18) months of temporary disability, except as set for in 10.3 (b). During the covered period of temporary disability, the Employer will adjust the employee's gross salary to account for the favorable tax treatment of the Workers' Compensation disability pay. Under no circumstances will the employee's adjusted net pay be less than 100 percent of the net pay that he or she received prior to disability designation. After 18 months, if the employee remains temporarily disabled he/she may use accrued sick, annual or compensatory time to make up the difference between workers' compensation benefits and full salary. When incapacitated for regular work assignments, the employee must be required to accept other work assignment for the period of recuperation if found physically capable or be ineligible for disability leave. The ability of the employee to work will be determined by the County's Medical Examiner or such physician authorized by the Chief Administrative Officer.

B. Extension of Disability Leave

An application for disability retirement, prior to the end of the applicable cap, either twelve (12) or eighteen (18) months as appropriate, extends disability leave until such time as the Chief Administrative Officer renders a final decision on the disability retirement application.

C. Termination of Disability Leave Does Not Affect Other Benefits

At such time as Disability Leave is terminated (pursuant either to Section 10.2 (a) above or Section 10.3 (b) below), the employee shall continue to receive all other county-provided benefits for any period that he/she continues to receive benefits provided under the Workers Compensation Law of the State of Maryland.

D. Advance Notification of Expiration of Disability Leave

Prior to the expiration of an employee's Disability Leave period, the Employer shall provide written notification to the employee which fully informs him/her of: (1) the date that his/her disability leave expires and disability pay ends; and (2) contact information for the Office of Human Resources to allow employees to schedule one on one sessions concerning continuation of pay and benefits and for retirement. The Employer shall provide such written notification no more than sixty (60) days and no less than thirty (30) days prior to the expiration of the employee's Disability Leave, and it shall be delivered to each employee by certified mail or registered mail to the employee's home address listed in the Employer's records. A copy of such written notification shall be provided to the Union President at the same time that it is mailed to the employee. No employee's Disability Leave (and associated pay and benefits) shall terminate upon less than thirty (30) days advance written notification as provided herein.

Section 10.3 Managed Care for Job Related Injury/Illness

Bargaining Unit employees incurring a job related injury/illness may obtain medical care through a managed care program provided by the Employer. This program will have the following components:

- A. Employees will be permitted to select a doctor for treatment from a network of physicians. The Union shall participate to the full extent allowed by law, rule, and regulation in the establishment of the managed care provider. Participation shall include, but not be limited to, provision of information.
- B. Employees who do not select a physician from the established network shall be eligible for disability leave for a maximum of 12 months. After 12 months, if the employee remains temporarily disabled, he or she may use accrued sick leave, annual leave, or compensatory time to make up the difference between worker's compensation benefits and full salary.
- C. Employees will receive initial care from a network physician at no cost, even if the claim is ultimately denied.
- D. The managed care provider will coordinate benefits with the group health provider to avoid confusion and duplication of filings.
- E. The managed care provider will perform utilization review of treatment.
- F. Nothing in this Section 10.3 shall apply to any job related injury/illness incurred by an employee prior to the start of the Managed Care Program.

Section 10.4 Reasonable Accommodation

County Administrative Procedure 4-30 ("Reasonable Accommodation") is expressly incorporated by reference in this Agreement.

Section 10.5 Return to Work Examinations

Before an employee returns to work after an absence which is the result of a job related injury, illness or has been out 15 or more calendar days as a result of non-job related personal injury or illness the employee must report to Fire/Rescue Occupational Medical Services for a clearance to return to work medical examination.

Section 10.6 Change in Work Status:

- A. Any employee who is relieved from duty or reassigned to a limited duty position (i.e. light duty) due to any medical condition for which he /she would be entitled to receive Workers' Compensation benefits pursuant to Section 9-503 of the Labor and Employment Article of the

Maryland Code shall be placed on administrative leave under Article 9.B.3 of the Agreement, or be placed in a light duty assignment as determined by the Employer. An employee relieved from duty or reassigned to limited duty under the circumstances described in this subsection will not be charged sick leave, unless the diagnosis removes the medical condition from coverage under Section 9-503 of the Workers' Compensation law.

- B. For a bargaining unit employee who is relieved from duty or reassigned to a limited duty position pursuant to the conditions set forth under Section A above, such loss of time or referral to modified duty shall be considered a disablement pursuant to Section 9-502 (a) of the Labor and Employment Article of the Annotated Code of Maryland, unless the diagnosis removes the medical condition from coverage under either Section 9-503 or Section 9-502(a) of the Workers' Compensation law.
- C. Light Duty: Any employee who is placed on light duty and who was working a 24-hour work schedule immediately prior to being placed on light duty shall, at his/her option, remain on the same 24-hour work schedule for no less than four (4) weeks from the time of the injury or illness. The Fire Chief shall consider on a case-by-case basis requests to remain on 24-hour light duty shifts beyond the initial period. Such requests shall not be unreasonably denied.

Section 10.7 Secondary Employment

- A. For any employee entitled to disability leave, the employer shall pay the covered employee compensation in accordance with section 10.2 governing disability leave.
- B. The employer shall pay compensation for the period that the covered employee is entitled to disability leave for a maximum period of eighteen (18) months, except as set forth in 10.2(b) and 10.3(b).
- C. The employee shall be eligible for compensation for such disability leave if the employee is temporarily disabled from the duties of the public safety employment that gave rise to the injury, regardless of whether the employee engages in secondary employment, provided that:
 - 1. The secondary employment commenced prior to the injury;
 - 2. The duties of the secondary employment are not likely to cause delay or preclude full recovery and return to work as certified by the FROMS physician and such employment is approved by the Fire Chief. Such requests shall not be unreasonably denied.

ARTICLE 11 - FAMILY MEDICAL LEAVE

Section 11.1 Definition

Family and medical leave is paid or unpaid leave granted to eligible employees for the purposes stated in the federal Family and Medical Leave Act (FMLA) of 1993.

Section 11.2 Eligibility

An employee who has been employed by the County for a total of 12 months, and who has been in a work status for at least 1040 hours in the preceding 12 months, must be allowed to use 12 workweeks per leave year of any combination of annual leave, sick leave, disability leave, parental leave, and leave without pay for any one or more of the following reasons:

- A. To care for the employee's newborn or newly adopted child or to care for a foster child newly placed with the employee;

- B. To obtain prenatal care for the employee or to arrange for the adoption or foster care placement of a child with the employee;
- C. To care for or arrange care for any of the following with a serious health condition: the employee's spouse or domestic partner, a minor child of the employee or the employee's domestic partner, adult son or daughter of the employee or domestic partner incapable of self care, or parent;
- D. Because of the employee's serious health condition that makes the employee unable to perform the functions of the employee's position.

Section 11.3 Leave Year

The leave year begins with the first full payroll period of a calendar year and ends with the payroll period in which December 31 falls.

Section 11.4 Workweek

A workweek for FMLA purposes consists of the average number of hours which the employee works in a week.

Section 11.5 Use of FMLA leave

- A. Leave taken to care for the employee's newborn child or child newly placed for adoption or foster care:
 - 1. Must be taken within 12 months of the birth, adoption, or foster care placement of the child;
 - 2. May be used on a continuing basis or, with the approval of the supervisor, may be used on an intermittent or reduced workweek basis;
 - 3. At the employee's option, may be paid leave of the appropriate type, or unpaid leave, or any combination of the two;
 - 4. Must be unpaid leave if the employee has exhausted all appropriate paid leave or does not accrue paid leave;
 - 5. Is subject to a 30-day advance notice period;
 - 6. Will not qualify as parental leave under Article 8 of this Agreement if the leave is taken to care for a newly placed foster child, or if the employee has exhausted the 720 hours (up to 864 hours for an operational firefighter) of parental leave provided per 24-month period under Article 8.
- B. FMLA leave which does not qualify as parental leave under Article 8 of this Agreement may not include sick leave beyond the limitations stated in section 7.1 of the Agreement.
- C. FMLA leave taken for medical purposes listed in section 11.2 C and D:
 - 1. At the employee's option, may be paid leave of the appropriate type or unpaid leave, or any combination of the two;
 - 2. Must be unpaid leave if the employee has exhausted all appropriate paid leave or does not accrue paid leave;
 - 3. May be used on a continuing, intermittent or reduced workweek basis, as needed.
 - 4. **The Employer** may require an employee to submit medical certification from a health care

provider to support a request for FMLA leave for the employee's serious health condition that makes the employee unable to perform the function of the employee's position, or for the serious health condition of the employee's family member including domestic partners and their children. A request for medical certification must be made in writing and must advise the employee of the anticipated consequences of failing to provide the certification. Medical certification may be required for any of the following reasons:

- (a) the FMLA leave exceeds 5 consecutive work days;
 - (b) the employee requests to use any amount of annual leave as FMLA leave, and the requested leave would not normally be approved under the standards generally applied to requests for annual leave;
 - (c) the **Employer** suspects the employee of leave misuse or abuse;
 - (d) the employee has been placed on leave restriction and must submit medical certification for any request to use leave for medical purposes; or,
 - (e) the department's approved leave policy requires medical certification under the circumstances.
5. The **Employer** may require medical re-certification of a serious health condition of the employee or the employee's family member. Such re-certification may be requested verbally, at reasonable intervals, but not more often than every 30 days, unless:
- (a) the employee requests an extension of leave;
 - (b) circumstances described by the original certification have changed significantly;
 - (c) the **Employer** receives information that casts doubt upon the continuing validity of the original certification; or,
 - (d) the employee is unable to return to work after FMLA leave because of the continuation, recurrence, or onset of a serious health condition.
6. If medical certification or re-certification is required, it must be submitted by the employee within 15 calendar days after it is requested by the **Employer**.
7. If the **Employer** has reason to doubt the medical opinion as documented by the completed medical certification for the serious health condition of the employee or the employee's family member (including domestic partners and their children), the **Employer** may require the employee to obtain, at the County's expense, a medical opinion from a second health care provider designated by the Fire/Rescue Occupational Medical Section. If the two opinions differ, the employer may require a medical opinion from a third health care provider at the expense of the County. The employee and the Fire/Rescue Occupational Medical Section must jointly agree on the third health care provider, whose opinion is final and binding.
8. FMLA leave taken for a serious health condition may be taken on an intermittent or reduced work schedule if the medical need can best be accommodated through such a schedule. An employee must attempt to schedule intermittent leave so as not to disrupt the work unit unduly.
9. FMLA leave cannot be taken to care for the employee's adult son or daughter capable of self care who has a disability from which complete recovery is expected.
10. When returning from 15 or more consecutive days of FMLA leave for the employee's

serious health condition other than childbirth, the employee must be referred to the Fire/Rescue Occupational Medical Section for clearance to return to work.

- D. An employee may be temporarily transferred to another position in the Department with equivalent pay and benefits to accommodate an intermittent leave schedule or reduced workweek.
- E. Employees must apply for paid FMLA leave in accordance with applicable procedures for the granting of annual leave, sick leave, and parental leave and provide as much advance notice as possible to the **Employer** so as not to disrupt the work unit unduly. When unforeseen events occur, notice of the need to use FMLA leave will be given as soon as practicable, ordinarily within 1 or 2 working days.
- F. Employees must provide advance written notice of intent to use leave without pay for FMLA purposes when the need to use the leave is foreseeable. Employees must otherwise provide such notice as is practicable.
- G. Either the employee or **Employer** may designate leave as FMLA leave. The **Employer** should designate leave as FMLA leave if the information available to the **Employer** from the employee indicates that the leave is being taken for an FMLA purpose, and the employee has not requested or otherwise indicated that the leave is FMLA leave. The **Employer** must advise the employee prior to the completion of the period of leave that it has been designated as FMLA leave and the reasons for the designation.

Section 11.6 Limitations on Sick Leave Usage

Sick leave may only be used for the following FMLA purposes:

- A. To care for the employee's newborn or newly adopted child, provided that the leave qualifies as parental leave under Article 8 of this Agreement;
- B. To care for the employee's newborn or newly adopted child, if the leave does not qualify as parental leave under Article 8 of this Agreement, subject to the limitations on family sick leave in section 7.1;
- C. To obtain prenatal care for the employee;
- D. To care for, or arrange care for, any of the following with a serious health condition: the employee's spouse or domestic partner, a minor child of the employee or the employee's domestic partner, adult son or daughter of the employee or domestic partner incapable of self care, or parent, subject to the limitations on family sick leave in Section 7.1;
- E. Because of the employee's serious health condition that makes the employee unable to perform the functions of the employee's position.

Section 11.7 Recording of Family and Medical Leave

Leave used for FMLA purposes will be recorded as FMLA leave, and, as applicable, as annual leave, sick leave, disability leave or leave without pay.

Section 11.8 Relation to Other Benefits

- A. An employee who uses leave without pay under this section will retain all health and life insurance benefits for the entire period of leave without pay. Such employees may defer payment of the employee's share of the cost of such benefits until the employee returns to pay status. If the employee elects to defer such payments, the employer will deduct one-sixth of the total amount owed from the employee's next six paychecks upon return from FMLA leave.

- B. The employee must be restored to the same or an equivalent position with equivalent benefits upon return from FMLA leave.
- C. An employee who uses FMLA leave under this Article shall continue to accrue seniority for all purposes during the entire period of leave.
- D. The use of FMLA leave will not prevent an employee from using other types of accrued or non-accrued leave, subject to the limitations stated in other sections of this Article.

ARTICLE 12 - LEAVE WITHOUT PAY

Section 12.1 Definition

Leave without pay is an approved absence during which time the employee is in a non-pay status.

Section 12.2 Eligibility

Leave without pay is a privilege that may be granted to an employee at the discretion of the Chief Administrative Officer or other designated official. However, an employee must be allowed to use leave without pay for FMLA purposes in accordance with Article 11 of this Agreement.

Section 12.3 Employee Request for LWOP

- A. An employee who wants to use LWOP should:
 1. request it in writing in advance unless the employee could not anticipate the need to use LWOP; and
 2. give the request for LWOP to the employee's supervisor and state in general terms the employee's reason for requesting the leave.
- B. In emergency situations, LWOP may be granted by the Chief Administrative Officer or other designated official without prior application.

Section 12.4 Approval of LWOP Request

- A. The Employer must approve LWOP for an eligible employee if the requested leave is:
 1. FMLA leave under the Family and Medical Leave Act, Montgomery County Employee Benefits Equity Act, and Article 11 of this Agreement;
 2. parental leave under Article 8 of this Agreement;
 3. military leave under Section 12.6 of this Article;
 4. leave approved for an employee who is a member of the General Assembly under Section 12.7 of this Article.
- B. The Employer may approve an employee's request to use LWOP for another purpose after considering the employee's reason for requesting LWOP and how the employee's absence will affect the division's work.
- C. An employee may appeal a denial of LWOP by filing a grievance under Article 38 of this Agreement.

Section 12.5 Limits on LWOP

- A. The Employer may approve LWOP for an employee for one year or less.
- B. If an employee has used more than 12 consecutive months of LWOP, the Employer may:

1. terminate the employee's employment
 2. take another action consistent with State or Federal law such as the ADA, FMLA, or USERRA.
- C. If the Employer approves more than 90 consecutive calendar days of LWOP for an employee, the Employer may, as a condition of approval, require the employee to waive the right to be reinstated to the employee's position after the approved LWOP period ends unless the LWOP is:
1. FMLA leave;
 2. parental leave;
 3. military leave; or
 4. leave approved for an employee who is a member of the General Assembly under Section 12.7 of this Article.
- D. If the Employer requires that an employee waive the right to be reinstated to the employee's position:
1. the employee remains an employee during the authorized period of LWOP and may apply for other positions, but the County is not obligated to appoint the employee to another position.
 2. the Employer may fill the employee's position as soon as the authorized period of LWOP starts; and
 3. if not prohibited by applicable law, the Employer may terminate the employment of the employee after the authorized LWOP period ends unless the employee resigns or is appointed to another position.

Section 12.6 Placing an Employee on LWOP

- A. LWOP for a medical condition. The Employer may place an employee on LWOP if:
1. the employee is unable to perform the essential functions of the employee's position and reasonable accommodation is either impossible or unsuccessful or light duty is inappropriate;
 2. the employee is not eligible for disability leave; and
 3. the employee has exhausted all other types of leave.
- B. LWOP by default. The Employer may place an employee on LWOP by default if the employee has exhausted leave of the type that the employee requested, and other appropriate leave, and compensatory time.

Section 12.7 Use of LWOP to Perform Duties of an Elected Office or Campaign for Political Office

- A. LWOP for an employee who is a member of the Maryland General Assembly. The Employer must grant LWOP to an employee who is a member of the Maryland General Assembly as required by Section 2-105 of the State Government Article of the Maryland Code.
- B. LWOP for an employee who is not a member of the Maryland General Assembly. An employee may request LWOP to campaign for political office and to perform the duties of an elected position. The employee's supervisor may approve the requested LWOP on the same basis as requests for LWOP for other reasons.
- C. Effect of LWOP use for an employee who is a member of the Maryland General Assembly. If an

employee who is a member of the Maryland General Assembly uses LWOP to perform the duties associated with the employee's elected position while the General Assembly is in session, the Employer must:

1. ensure that the employee continues to accrue annual and sick leave;
2. not delay the employee's eligibility for a higher annual leave accrual rate;
3. not reassign the employee's service increment date; and
4. not deprive or impair any other incident of employment, except that the Employer is not required to pay a salary or wages.

Section 12.8 Effect of LWOP Use on Employee Benefits

- A. Effect on employee's annual and sick leave accrual. Except as provided in Section 12-7 (c) above:
 1. an employee must not accrue annual or sick leave while the employee uses LWOP;
 2. the Employer must delay the date on which the employee is eligible for a higher annual leave accrual rate for the same length of time that the employee was on LWOP, if an employee uses LWOP for more than 4 consecutive weeks.
- B. Effect on an employee's eligibility for a service increment. The Employer must reassign the service increment date of an employee who uses more than 28 calendar days of LWOP, unless the LWOP is:
 1. FMLA leave;
 2. parental leave;
 3. military leave;
 4. professional improvement leave; or
 5. used under Section 12-7 (a) and (c) by an employee who is a member of the Maryland General Assembly.
- C. Period of suspension to be treated as LWOP for benefits purposes. If an employee is suspended, the Employer must treat the period of suspension the same as a period of LWOP for the purpose of the employee's benefits, except that the Employer must reassign an employee's service increment date if it occurs during a suspension.

Section 12.9 Military Leave for Active Duty

An employee who is required to serve on active duty in the armed forces of the United States or state militia must be granted leave without pay for the period the employee is required to remain in the military service. The employee is entitled to reinstatement to the former position or one of comparable status upon separation from the armed forces, provided application for reinstatement is made within 90 days from date of separation.

ARTICLE 13 - RATE/TYPE OF COMPENSATION

Section 13.1 Hourly Rate of Compensation The hourly rate of compensation to be used in compensation calculations for a particular pay period shall be based on the total number of hours the employee is scheduled to work, as referenced in Article 23, per year at the time divided into the employee's

ARTICLE 22 - PREVAILING RIGHTS

Rights, privileges, benefits, and working conditions enjoyed by the employees at the present time, as listed below, except as modified by this agreement, shall remain in full force, unchanged and unaffected, during the term of this Agreement unless changed by mutual consent of the County and the Union:

- A. Existing Optical Plan;
- B. Physical Exams;
- C. Retirement and Pension Benefits;
- D. Educational Salary Differential and other pay differentials;
- E. Professional Improvement Leave;
- F. Workplace provisions - the employer will supply, maintain¹¹ and make available the following items in reasonable and sufficient quantities at each fire station; refrigerator, oven, microwave, dishwasher, two washers, two dryers, ice machine¹², facsimile machine, laundry supplies, eating and cooking utensils, and reasonable local telephone service, so long as these items were purchased with tax dollars. The Employer also agrees to use its "best efforts" to ensure that the following items are in sufficient supply at each station: laundry detergent, bleach, paper towels, soap (dish and hand), scouring pads and toilet paper. Finally, the Employer agrees to maintain in each County-owned worksite a Heating, Ventilation and Air Conditioning (HVAC) system.¹³

Bargaining unit employees working at a worksite where workplace kitchen appliances are unavailable due to renovation shall receive the following per diem payments each shift (or portion thereof):

Number of Hours Worked Per Shift	Per Diem Per Shift
0-4	\$ 0
5-12	\$15
13-18	\$20
19-24	\$35

- G. Secondary Employment Procedures;
- H. Employee Tuition Assistance;
- I. Overtime compensation for continuing education requirements for paramedics;
- J. Lockers;
- K. Six month limitation on sick leave restrictions;
- L. Hepatitis Vaccine Shots and annual flu shots at no cost to the employee if requested by the employee. Each year, employees will be informed, in writing, of the availability of flu shots at

¹¹ As applied in this provision, the parties understand the term "maintain" to mean that the Employer will make reasonable efforts to ensure that the items referenced herein are kept in working order and that, if an item referenced herein should fall into disrepair, the Employer will take necessary steps to ensure that the item is either repaired or replaced.

¹² The ice machines at each fire station shall be of adequate size and of commercial quality, such that the ice machines are able to provide an adequate supply of ice for use in apparatus coolers.

¹³ The Employer agrees that it will make reasonable efforts to ensure that working HVAC systems are maintained at worksites not owned by the County to which bargaining unit employees of the Montgomery County Fire and Rescue Service are assigned.

least sixty (60) days prior to their availability, and at that time employees will be requested to respond, by email or in writing, within 21 days of such notification if they wish to receive a flu shot. Any employee who indicates that he/she wishes to receive a flu shot and who subsequently declines to receive the shot may be required to reimburse the Employer for the cost of the dosage up to a maximum of ten dollars (\$10.00). The County shall have no obligation to provide flu shots to bargaining unit employees who do not respond to this notice. The County may, at its discretion, make any surplus doses available to bargaining unit employees. Tetanus shots at no cost to the employee will be available if requested at the time of the employee's regularly scheduled physical/annual pulmonary function test at the Occupational Medical Section;

- M. Employee Assistance Program;
- N. Adjustment of leave balances shall be calculated pursuant to Section 1-21, of the County Personnel Regulations as amended, August 25, 1988;
- O. Disposition of Special Pay Differentials on promotion;
- P. Crediting of Special Pay Differentials toward fringe benefits;
- Q. One piece of mutually agreed upon suitable aerobic equipment at the Emergency Communications Center (ECC) for use by E.C.C. employees.
- R. Matters subject to bargaining as specified under 33-152 (a) of the County Code as amended shall remain in effect as specified under the 1986 Montgomery County Personnel Regulations (as amended on March 19, 1987 and August 25, 1988) unless otherwise modified by this Agreement.
- S. County to ensure bottle water is provided at each station.
- T. All bargaining unit employees who retire on disability retirement shall be provided a copy of the Disability Review Panel final report and any personnel information in the County's possession necessary to apply for Social Security Disability benefits at the time they sign their retirement paperwork.

Section 22.2 Notice and Opportunity to Submit Comments

- A. Prior to the implementation of any new or revised Directive, MCFRS Bulletin, Policy, Procedure, Instruction¹⁴ relating to or affecting bargaining unit employees, the Employer shall provide the Union President, 1st Vice President, and 2nd Vice President with written, electronic notice and an opportunity to submit comments. If the Employer provides the Union with written, electronic notice and opportunity outside normal business hours (Monday through Friday, 7:00 am to 3:00pm), the electronically transmitted notices will be deemed received on the following business day. The employer will provide the Union written notice of its designee authorized to transmit documents for notice and opportunity.
- B. Such written notice shall be addressed to the President of the Union, and shall be sent to him by regular and electronic mail. Such written notice shall include an explanation and/or description of the new or revised Directive, MCFRS Bulletin, Policy, Procedure or Instruction and the date on

¹⁴ The parties understand and agree that the term "Instruction" refers to: a) a written explanation provided by the Division Chiefs or the Fire Chief regarding the processes and/or procedures associated with the implementation of a new or revised Directive, Safety Bulletin, Policy or Procedure; or, b) written explanation/clarification provided by the Division Chiefs or the Fire Chief regarding an existing Directive, Safety Bulletin, Policy or Procedure that deviates from an established past practice.

which the Employer intends to implement it.

- C. The Union shall have thirty (30) calendar days from the date upon which the President of the Union receives written notice to submit written comments or, if appropriate, proposals regarding the new or revised Directive, MCFRS Bulletin, Policy or Procedure or Instruction. During the thirty (30)-day period, the Union may request to meet and confer with the Employer regarding the new or revised Directive, MCFRS Bulletin, Policy or Procedure or Instruction. The Employer will make all reasonable efforts to accommodate the Union's request to meet and confer. If the Union submits proposals on negotiable matters, the parties shall meet to discuss such proposals during and, if necessary, after the expiration of the thirty (30)-day period.
- D. If a bargaining unit employee is disciplined or negatively appraised on his or her performance evaluation, and such discipline or negative appraisal is related to the implementation of any new or revised Directive, the Employer shall have the burden to demonstrate that the Union was provided notice and opportunity to submit written comments on such Directive, MCFRS Bulletin, Policy, Procedure or Instruction. The above-described "burden" shall be in addition to, rather than in lieu of, the Employer's burden of proving by a preponderance of the evidence in an arbitral proceeding the employee's culpability for the disciplinary infraction with which he or she was charged.
- E. Prior to the release of any promotional bulletin for a position within the bargaining unit, the Employer will forward a draft of the bulletin to the Union President for comments no less than five (5) calendar days prior to the posting of the bulletin.

ARTICLE 23 - HOURS OF WORK

Section 23.1 Operations

Hours of work for employees other than those listed below, shall be not more than an average of forty-eight (48) hours per week, and such employees shall work shift work at twenty-four (24) hours on and forty eight (48) hours off, with an inclusion of the appropriate Kelly day(s) off. Early relief up to four (4) hours is authorized if approved by the Station Officer.

Section 23.2 Operations Day Work

All day work personnel assigned to the Bureau of Operations will work four (4) ten (10)-hour shifts every week for forty (40) hours every seven (7) days.

Section 23.3 Fire & Explosives Investigations Section

Hours of work for bargaining unit employees assigned to the Fire Investigations Section shall be an average of forty-two (42) hours per week. Such employees shall work two (2) twelve (12) - hour days and two (2) twelve (12)-hour nights, and will be provided four (4) days off during a work cycle. Alternate work hours, mutually agreed upon by the County and Union, may be implemented during the duration of this contract. Bargaining unit members notified of the requirement to remain available to report for duty during non-working hours shall receive stand-by pay consistent with Article 15.5.B. Upon being called back to duty, the bargaining unit member will be provided overtime pay, consistent with Article 15.

Section 23.4 Training and Prevention

All day work personnel assigned to the Fire Code Enforcement Section and Training Section will work four (4) ten (10) hour shifts every week for forty (40) hours every seven (7) days.

Section 23.5 Emergency Communications Center

The parties recognize the challenges associated with optimal staffing in the Communications Center environment. In view of these challenges the parties have agreed that the options for hours of work will be established that will ensure continuity of service, optimal staffing and improved morale. Hours of work for bargaining unit Emergency Communications Center (ECC) personnel shall be an average of forty-two (42) hours per week and shall primarily be **four (4) twelve (12) hour shift periods with four (4) consecutive days off**. Early relief up to two hours is authorized if approved by the Station Officer.

Additional work hour options shall be available to bargaining unit employees which include: 1) two (2) twelve (12) hour shifts and one (1) 24-hour shift with five (5) days off; 2) **twenty-four (24) hours on and forty-eight (48) hours off with the inclusion of appropriate Kelly Days**. These additional work hour options are available as alternatives to the primary work hours of **four (4) twelve (12) hour shift periods with four (4) consecutive days off** and may be selected by the Employer in consideration of operational needs. **Normally, such changes made to ECC schedules based upon operational need will be made with no less than 4 weeks' notice to employees. No bargaining unit member shall be placed on a twelve (12) hour schedule prior to June 30, 2016.**

Every effort will be made to ensure that bargaining unit employees assigned to ECC will be given the opportunity to work in Operations a minimum of twenty-four (24) hours per month. **Such assignments shall be consistent with the bargaining unit employee's schedule type as described above.** In addition, all medics assigned to ECC will be detailed to Operations to ensure maintenance of their medic certification, as established by the Montgomery County Fire and Rescue Services.

Section 23.6 Absent Without Official Leave

- A. An employee who fails to report for duty as scheduled or who leaves the work site prior to the end of the scheduled work day without the approval of a supervisor, will be:
 1. considered absent without leave;
 2. placed in a non-pay status for the period in question, and
 3. subject to appropriate disciplinary action or termination.

Section 23.7 Hours of Work for Part-time Employees

- A. Hours of work for bargaining unit employees in part-time positions shall be between twenty (20) and thirty-nine (39) regularly scheduled hours per week, on a continuing year round basis.
- B. Part-time employees shall be extended benefits and working conditions under the following terms:
 1. Retirement Benefits will be determined according to the Group G member benefits provisions of the Employees' Retirement System law.
 2. Life insurance benefits shall be paid on the appropriate pro rata basis.
 3. Tax Deferred Compensation. The maximum deferred salary amount shall be in accordance with section 457 of the Internal Revenue Code.
 4. Holidays shall be applied to part-time employees on a pro rata basis.
 5. Annual and sick leave accrual shall be pro rated, based upon the number of regular hours in a paid status per pay period.
 6. Tuition Assistance, Parental Leave, Disability Leave, Seniority for the purposes of Article 27 of this Agreement, sick leave donations and all special duty pay differentials identified in Article 17 shall be pro rated.

7. Uniforms and Equipment, Grievance Rights, Emergency Pay, Bereavement Leave, Administrative Leave, and Annual and Compensatory Leave Carryover shall not be pro rated.
 8. Any right or benefit not listed in this Section and disputed may be grieved and arbitrated pursuant to Article 38 of this Agreement.
- C. Full-time bargaining unit employees shall not be required to transfer to part-time positions.

Section 23.8

The County agrees to form a joint committee with equal numbers of Union and County representatives to study and make strategic recommendations to the County Executive before January 1, 2010 regarding work hours for bargaining unit employees. The Union representatives on the Committee shall be considered to be on a detail if working during these meetings. Hour for hour compensatory time or pay at the employee's regular hourly rate shall be credited to Union representatives who attend meetings on their day off.

ARTICLE 24 - DAILY WORK SCHEDULE

Section 24.1 Meal Times – 24-Hour Shift

The Employer agrees to provide reasonable time (not more than one hour per meal) for lunch and dinner meal periods. Such meal periods shall not be unreasonably denied.

Section 24.2 Meals When Working Beyond the 24 Hour Shift

Employees who are held over and required to work more than three hours beyond their regular schedule shall be given reasonable time, consistent with Section 24.1, to eat meals while on duty.

Section 24.3 Rest Period

Following the third daily activity period, for any employee working shift work, bed rest shall normally begin at 2100 hours. This provision shall not, however, impede the performance of work based upon operational needs as required and deemed appropriate by the Employer.

ARTICLE 25 - REPORTING TIME

When a bargaining unit employee reports to his/her assigned work location and is then detailed to another location, he/she shall be allowed a reasonable time to arrive at the location of the detail.

ARTICLE 26 - PERSONNEL FILES/RECORDS

Section 26.1 Examination

An employee, upon presenting his/her identification, shall be permitted by appointment to examine his/her personnel, departmental operating, supervisory, or medical files. The employee shall indicate in writing, to be placed in his/her file, that he/she has examined the same. The custodian of medical records may determine, consistent with State law, that certain medical information will only be released through the physician or attorney of the employee upon receipt of a signed release from the employee. Medical records will be maintained in accordance with Section 26.6 of this Article. The County may retain and store records in various formats, including as electronically imaged documents. The records of the MCFRS Internal Affairs Division (IAD) are not personnel records.

Section 26.2 Employee Notification

Any time that a document is added to an employee's personnel, medical or departmental operating file, a copy must be provided to the employee, and the employee shall be given an opportunity to submit rebuttal, if desired, to be included in the file.

A log will be maintained in the employee's official personnel file, departmental operating record and medical record, regardless of the medium or format in which these records are maintained. The log kept in the employee's official personnel file must record the names of all persons who review this file, and each date when the file is reviewed. Provided, however, that the Director and employees of the Office of Human Resources are not required to make entries in a log when they access an employee's official personnel file.

The log kept in the employee's departmental operating record must record the names of all persons who review this file, and each date when the file is reviewed. Provided, however, that the custodian of departmental operating records, and all employees supervised by the departmental custodian who perform personnel administration functions, are not required to make entries in a log when they access an employee's departmental operating record.

The log kept in the employee's medical record must record the names of all persons who review this file, and each date when the file is reviewed. Provided, however, that employees and contractors of the County's Fire/Rescue Occupational Medical Section are not required to make entries in a log when they access an employee's medical record.

The log kept in the employee's medical record must record the names of all persons who review this file, and each date when the file is reviewed. Provided, however, that employees and contractors of the County's Fire/Rescue Occupational Medical Section are not required to make entries in a log when they access an employee's medical record.

Section 26.3 Official Personnel File

- A. The Office of Human Resources must keep the County's official personnel file for each employee. The official personnel file must not contain any information about an employee's medical or psychological condition.
- B. The documents in the official personnel file are limited to:
 1. application for employment or promotion that resulted in appointment or promotion;
 2. employment history, including personnel action documents affecting appointment, promotion, transfer, salary change, or other personnel action;
 3. employee identifying information and emergency contact information;
 4. payroll withholding documents;
 5. insurance, retirement, and other records related to employee benefits;
 6. education records submitted with application for employment or promotion, but not routine training records;
 7. performance evaluations from the last 5 years;
 8. disciplinary actions other than written reprimands;
 9. commendations; and,
 10. written reprimands from the last 12 months.

Section 26.4 Departmental Operating Record

- A. A department director may maintain employee records necessary for program level operations. Operational records must not contain any information about an employee's medical or psychological condition.
- B. Departmental records shall include records of an employee's training, including selection for training, for the entire period of an employee's employment and must be kept for 6 months after the employee leaves County employment.
- C. If an employee transfers to another department, the DFRS Chief must give the employee's training records to the new department.
- D. The documents in the departmental operating record are limited to:
 - 1. home address and phone number;
 - 2. current job information, which may include the job description and location;
 - 3. employee emergency contact information;
 - 4. training records;
 - 5. timesheet and leave data necessary to verify payroll;
 - 6. leave records from the last 5 years;
 - 7. performance evaluations and supporting documentation from the last 5 years;
 - 8. commendations from the last 5 years;
 - 9. disciplinary actions, other than written reprimands from the last 5 years;
 - 10. documents from health care providers concerning medical appointments, light duty, or return to work, for the last 2 years.
 - 11. Written reprimands for 12 months.

Section 26.5 Supervisory File

- A. A supervisor may maintain a file for each employee supervised that contains documents related to the previous 12 months. Supervisory records must not contain any information about an employee's medical or psychological condition, but may include:
 - 1. Copies of records contained in the departmental operating record;
 - 2. Commendations and verified complaints from customers concerning the employee's job performance or conduct;
 - 3. Notes made by the supervisor during a performance review or other counseling sessions with the employee;
 - 4. Copies of the employee's completed work assignments, draft documents, or work in progress;
 - 5. Written communications between the employee and the supervisor concerning performance or conduct issues.
 - 6. Notes from health care providers submitted by employees during the last 12 months to confirm medical appointments, excuses from work, duty status, returns to work, and work restrictions.

- B. A supervisor must permit an employee to review the supervisory file upon request and provide a rebuttal to any document in the supervisory file and have it placed in the file.
- C. A supervisor must provide an employee with a copy of any document that the supervisor places in the official personnel file or departmental operating record and allow the employee to submit a rebuttal to any adverse document. The supervisor must have the employee's rebuttal placed in the file. The contents of the supervisory file are to be safeguarded from review by co-workers or station personnel who are not the employee's supervisors.
- D. Materials in a supervisory file are valid for a period of twelve (12) months, and may be used only during that time or during a rating period covering the period of documentation to support official personnel actions. These materials become a part of an employee's official or operating record only if they are incorporated in or attached to related personnel actions within twelve (12) months from the date they were originated. Materials in a supervisory file, which are not used to support a formal personnel action within 12 months of their inception, cannot serve as the basis for any further personnel actions, and shall be removed from the file.
- E. A supervisor may maintain informal notes regarding performance or other information about an employee under the supervision of that supervisor. Supervisory notes are not considered official employee records and are not subject to review by the employee or others. Supervisory notes may not be the basis of any adverse action against the employee unless they are incorporated into a document that is given to the employee.

Section 26.6 Access to Employee Records

Official personnel file, department operating record, and supervisory file. A non-medical employee record is confidential and is available on a need-to-know basis to:

- 1. the employee's supervisor or the Fire Chief or designee¹⁵;
- 2. the CAO or designee;
- 3. the OHR Director and staff;
- 4. the County Attorney and staff; and
- 5. members and staff of the Merit System Protection Board (MSPB).

Section 26.7 Medical Record

- A. The OHR Director must maintain the medical record of each employee.
- B. The OHR Director must limit the medical record of an employee to:
 - 1. County medical examination records;
 - 2. Records obtained or received from a health care provider about the fitness of an employee or applicant or a request for disability retirement;
 - 3. A medical waiver or release signed by the employee;
 - 4. A request by the employee's supervisor or the MCFRS Chief for an additional or special medical examination and the record of an action taken in response to the request;

¹⁵ The parties understand and agree that the term "designee" refers to an individual including the Promotional Board and administrative staff *and not* an entity (e.g. a division or department, etc.). The parties further recognize, however, that the Fire Chief may designate different individuals to access the above-referenced "Employee Records" at various times.

5. Result of a medical test, examination, or procedure including psychological examination or report; and
 6. Information provided by the employee or other person that relates to the health or health care of the employee.
- C. Medical records are confidential. OHR must maintain medical records in a secure location apart from other employee records.
- D. An employee's medical record is confidential and is available on a need-to-know basis to:
1. the CAO or designee;
 2. the OHR Director and designated staff;
 3. the County Attorney and designated staff;
 4. members and designated staff of the MSPB;
 5. the Disability Review Panel;
 6. the Disability Arbitration Board; and
 7. Workers' Compensation administrators.

No medical information shall be released to anyone who is not listed in (D) above unless the employee has provided a signed authorization, unless otherwise authorized by law.

Section 26.8 Fitness Record

- A. The Exercise Physiologist must maintain the fitness record of each bargaining unit employee.
- B. Employee fitness records will consist of, and will be limited to: capacity, body composition, flexibility, muscular strength, muscular endurance and non-medical, fitness-related information.
- C. The employee fitness record is confidential, and access to an employee's fitness record shall be limited to the Department Exercise Physiologist and the Peer Fitness Trainer performing the fitness assessment. Files will be kept in a secure location under lock and key.
- D. The purposes of the fitness record are to evaluate the fitness level of the employee to whom it pertains and to make recommendations for maintaining or improving the employee's level of fitness. Neither an employee's fitness record nor any of the information contained therein will be used to:
 1. evaluate the employee's job performance;
 2. discipline the employee;
 3. evaluate an employee's workers' compensation or disability claim; or,
 4. take any other personnel-related action adverse to the employee.

Section 26.9

- A. The parties agree that Settlement Agreements, Memoranda of Understanding and Last Chance Agreements shall be kept in the Administrative Services Section File, provided that such Settlement Agreements, Memoranda of Understanding and Last Chance Agreements and all references thereto shall not be retained in the Administrative Services Section File after the date upon which such Settlement Agreement, Memorandum of Understanding or Last Chance Agreement expires.

- B. The Administrative Services Section File shall be accessible only to the Fire Chief, the Division Chief of Administrative Services, the Administrative Services Assistant Chief, the Administrative Services Battalion Chief and the Administrative Services Captain.

Section 26.10 Expungement

The Employer shall remove and destroy adverse material in an employee file (in whatever medium or format it was kept) consistent with this Article.

Section 26.11 Internal Affairs Files

1. The Internal Affairs Division shall be the repository for the files.
2. Access to these files shall be limited to:
 - a) The employee, but only to the extent allowed by item 3 below
 - b) Fire Chief or designee
 - c) County Attorney or designee (need to know basis; i.e., when the employee is involved in litigation)
3. The Department will provide the employee and the Union any written statements (e.g., citizen complaints, employee observations, etc.) in the possession of the department and used in connection with an adverse action taken against a bargaining unit employee. These statements will be sanitized (i.e., address, phone number deleted) to protect privacy rights in accordance with the law.
4. In cases involving complaints where the charges were deemed unsustainable or unfounded, the files shall be expunged at the latter of three (3) years after the date the findings were made or any applicable statute of limitations or at the conclusion of any pending litigation.
 - a. Files involving complaints where a charge was sustained shall be eligible for expungement at the latter of five (5) years or any applicable statute of limitations or at the conclusion of any pending litigation.
 - b. The expungement method shall be the shredding of the physical file. In cases where more than one bargaining unit member is involved and one or more bargaining unit members is not entitled to expungement, the name of the bargaining unit member who is eligible for expungement will be redacted from those documents that refer to multiple bargaining unit members. Those documents that refer only to the bargaining unit member who is eligible for expungement shall be destroyed.
 - c. The expungement of information from the electronic database shall consist of the electronic obliteration of the bargaining unit member's name and identification number.

ARTICLE 27 – SENIORITY

Section 27.1 Definition

Seniority of a bargaining unit employee is calculated based on the total service time in the Montgomery County Government merit system as a full time career firefighter/rescuer in Montgomery County, except when breaks in service of two (2) or more years occur. When two or more employees have the same total service time, their relative seniority shall be determined first by their time in the highest attained grade, and only if this factor is equal for the employees involved, then their relative seniority shall be determined by lot. The official seniority list shall be prepared by the Employer and indicate the names,

classification, dates of employment and service times as of the date of distribution.

Section 27.2 Dates of Employment

Dates of employment for bargaining unit employees shall include the service time from full-time employment as a result of appointment to a permanent position as a career fire fighter or rescue squad employee by the independent fire and rescue corporations of Montgomery County. In the event of a dispute regarding service time under these provisions, enrollment in the appropriate retirement system as provided by the employing agency during the time of disputed service shall serve as the determining factor. Retirement time purchased on a "buy back" basis as a result of military service or service with other agencies in or outside Montgomery County shall not be counted.

ARTICLE 28 - TRANSFERS

Section 28.1 Definition

Transfers for the purposes of this agreement shall have the same meaning as provided in Section 21.1 of the Montgomery County Personnel Regulations, amended March 19, 1987 and August 25, 1988.

Transfers shall be made by the Employer and usually involve one or more of the following factors:

- A. A change from one merit system position to another;
- B. A change in physical location of the job or position;
- C. A change in duty assignment but within the same occupational class.

Section 28.2 Reasons for Transfer

The following, while not all-inclusive, may be reason for transferring an employee:

- A. A voluntary request;
- B. A lack of funding resulting from budgetary limitations or loss of federal/state funds;
- C. A change in the approved work program/plan/design;
- D. An administrative reorganization;
- E. A technological change or advancement that impacts on work force needs;
- F. A change in an employee's physical or mental condition;
- G. The resolution of a grievance or other problems affecting the operational efficiency of a unit or organization;
- H. For training or development; or
- I. The need for additional personnel at a specific work site.

Section 28.3 Qualifications for Transfer

An employee must meet the minimum qualifications for the position to which transferred. Length of County service (seniority) shall be considered when qualified candidates are otherwise deemed reasonably eq.

Section 28.4 Appeal of Transfer

A bargaining unit employee may appeal an involuntary transfer in accordance with Article 38, Grievance Procedure. The appealing employee must show that the action was arbitrary and capricious.

Section 28.5 Notice of Transfers

Bargaining unit employees shall be notified in writing at least two (2) weeks in advance that they are subject to involuntary transfer. The Employer shall advise the affected employee of the reasons for the transfer. Upon notification a bargaining unit member subject to an involuntary transfer shall have seven (7) calendar days to reply as to any reasons why he or she does not wish to be transferred and/or submit a transfer request indicating an interest in a position on the station personnel vacancy list. The Fire Chief or designee will carefully consider any reasons submitted by the employee before proceeding with any transfer.

Section 28.6 Transfers Are Not Details

This article shall not apply to the occasional detailing of bargaining unit employees between and among stations based on short term workload considerations.

Section 28.7 Voluntary Transfers

Voluntary transfers shall be given serious consideration over involuntary transfers, provided that the voluntary transfer applicant meets the minimum qualifications for the vacancy. An employee may submit a request for a voluntary transfer after having completed 24 months service following his/her initial appointment date as a career fire fighter/rescuer. At such times that only one bargaining unit employee has requested a voluntary transfer to a vacant position, the employer will consider transferring an employee who has spent less than the prescribed period of time in the employee's current assignment. A bargaining unit employee who seeks a voluntary transfer shall submit an electronic request via an appropriate computer program through the chain-of-command to the appropriate Division Chief. The computer program shall include the following features:

1. A detailed electronic receipt that is sent to the employee following submission of the transfer request.
2. Electronic supervisory comments with a copy of the comments sent to the employee.

Within 30 calendar days of receiving the request, the Division Chief must inform the employee if the request is granted, held or denied. The employee seeking a voluntary transfer may ask that the transfer request be held for a period not to exceed six months. A transfer request that is held at the employee's request remains valid until the desired transfer is granted, the employee rescinds the transfer request or the hold period expires, whichever occurs first. If, at the end of the hold period, the desired transfer has not been granted and the employee has not rescinded the request, the Division chief must inform the employee if the request is granted or denied.

ARTICLE 29 - PROMOTIONS

Section 29.1 Policy

Promotions must be made on a competitive basis after an evaluation of each individual's qualifications. The Employer's promotional program for positions within the bargaining unit should provide that qualified bargaining unit employees are given an opportunity to receive fair and appropriate consideration for higher level positions.

Section 29.2 Reference Materials

The Employer shall identify and make available study materials as described below one hundred and twenty (120) calendar days prior to the examination. Included in the list of study materials shall be the address of the publishers of the study material. The Employer shall provide copies of study materials as

follows:

- A. One set to the President of the Union for the Union Office;
- B. Six sets to be placed at locations agreed to by the President of the Union and the Fire Chief or designee.

Section 29.3 Notification of Score

Bargaining unit employees who take examinations under this article shall be notified of their final score and the appropriate rating category.

Section 29.4 Seniority and Education

Length of County service (seniority) and job related education shall be considered when qualified candidates for promotion are otherwise deemed reasonably equal.

Section 29.5 Appeal of Reassignment During Probation

A bargaining unit employee who has been promoted and is subsequently reassigned, during or at the conclusion of the promotional probationary period as provided in Section 6.4(f) of the Montgomery County Personnel Regulations (March 1994), to the former grade held prior to the promotion may grieve and arbitrate such action pursuant to Article 38 of this Agreement.

Section 29.6 Class Schedule for Promotions

Classes required for promotion through Fire/Rescue Captain will be scheduled both for the spring and fall semesters on a shift rotation basis. **The Employer shall include in his/her proposed budget to the County Council sufficient funding for MCFRS to hold one (1) class B driver training class for every twelve (12) individuals holding the rank of Fire Fighter/Rescuer II on July 1. For the first half of the class B driver training classes planned in the fiscal year, priority for enrollment shall be based on employees' seniority numbers, with the lowest number (most senior) having first priority and working toward the highest number (least senior). For the second half of the classes planned in the fiscal year, priority for enrollment shall be by inverse seniority.**

Section 29.7 Non-Penalty for Supervisory PCAP Entries

Employees shall not be penalized with regards to promotional examination or promotional eligibility for incorrect or incomplete entries into the PCAP system that are the responsibility of the employee's supervisor, or are otherwise not the responsibility of the employee.

ARTICLE 30 - DISCIPLINE

Section 30.1 Policy

- A. The Employer shall not suspend, discharge or otherwise discipline any employee of the bargaining unit except for cause.
- B. Once the Employer has determined there is cause to discipline an employee, the Employer agrees to give due consideration to the relevance of any mitigating and/or aggravating factors, in deciding the nature and level of disciplinary action appropriate, including, but not limited to:
 - 1. the nature and seriousness of the offense, and its relation to the employee's duties, position, and responsibilities, including whether the offense was intentional or technical and inadvertent, or was committed maliciously or for gain, or was frequently repeated;
 - 2. the employee's job level and type of employment, including his or her supervisory or

- fiduciary role, the frequency and level of his or her contact with the public, and the prominence of his or her position;
3. the employee's past disciplinary record;
 4. the employee's past work record, including his or her length of service to the Department, his or her job performance, his or her demonstrated ability to get along with fellow Department employees, and his or her dependability;
 5. the effect of the offense upon the employee's ability to perform at a satisfactory level and its effect upon the Employer's confidence in the employee's ability to perform assigned duties;
 6. the consistency of the penalty with those imposed upon other employees with similar personnel history for the same or similar offense(s);
 7. the notoriety of the offense or its impact upon the reputation of the Employer;
 8. the clarity with which the employee was actually on notice of any rules, regulations, directives, policies, orders, instructions or the like that were violated in committing the offense, or had been warned about the conduct in question;
 9. the potential for rehabilitation;
 10. mitigating circumstances surrounding the offense, such as unusual job tensions, personality conflicts, mental impairment, harassment, bad faith, or malice or provocation on the part of others involved in the matter; and,
 11. the potential adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others.

Section 30.2 General Procedures

- A. The parties recognize the importance of completing an investigation of a bargaining unit employee in as timely a manner as possible. However, when an employee has been the subject of an investigation, and a determination is made not to propose a disciplinary action, the designated proposing official will issue a letter indicating that the employee has been cleared or that the investigation has been closed without action. Such letter shall be issued to the employee subject to the investigation or proposed disciplinary action as soon as practicable, normally within thirty (30) calendar days of when the case involving the employee is closed. The letter will not be placed in the employees' Official Personnel File, unless the employee indicates in writing that he or she prefers that the letter be contained in his or her Official Personnel File.
- B. Whenever the Employer proposes to discipline an employee, the Employer shall issue a Statement of Charges to the employee within a reasonable period of time, after the Employer knows or reasonably should have known of the event giving rise to the proposed discipline. Before taking a disciplinary action other than an oral admonishment, the employer must give the employee a statement of charges that tells the employee:
 1. the disciplinary action proposed;
 2. the specific reasons for the proposed disciplinary action including the dates, times, and places of events and names of others involved, as appropriate;
 3. that the employee may respond orally and/or in writing;
 4. the official to whom the response is to be directed;

5. the deadline for submitting a response;
 6. that the employee may be represented when responding to the statement of charges; and,
 7. that the Union has a right to request a Pre-Discipline Settlement Conference.
- C. Upon in-hand receipt of the Statement of Charges, the employee shall have fourteen (14) calendar days to submit a written response. Any response must be received in the Office of the Fire Chief no later than the close of business fourteen (14) calendar days after receipt of the Statement of Charges. The Union has the right to request an extension of time on behalf of the employee to respond to the Statement of Charges. Such requests shall not be unreasonably denied. If the employee responds to the Statement of Charges, the Employer must carefully consider the response and decide:
1. if the proposed disciplinary action should be taken;
 2. if no disciplinary action should be taken; or
 3. if a different disciplinary action should be taken.
- D. The Employer must issue a new Statement of Charges prior to the issuance of a NODA, if the Employer decides that a more severe disciplinary action is appropriate.
- E. If the Employer decides to implement the disciplinary action, the Employer shall issue a Notice of Disciplinary Action within a reasonable time, after the employee has submitted his/her response to the Statement of Charges or within a reasonable time upon the completion of the Pre-disciplinary Settlement Conference. A notice of disciplinary action must contain the following information:
1. the type of disciplinary action that will be taken;
 2. the date on which the disciplinary action will take effect;
 3. the specific reasons for the disciplinary action including dates, time, places, and names of others involved, as appropriate;
 4. whether the employee responded to the statement of charges and if the response influenced the decision on the disciplinary action;
 5. the date on which the disciplinary action will be removed from the employee's department operating record;
 6. a statement of the employee's right to grieve or appeal the disciplinary action, other than an oral admonishment.
- F. A grievance may be filed in accordance with Article 38 of the Agreement within twenty (20) calendar days of the employee's in-hand receipt of the final Notice of Disciplinary Action.

Section 30.3 Disciplinary Examinations

- A. The Union shall be given the opportunity to be represented by up to two (2) Union-designated representatives at any examination of an employee in the bargaining unit by a representative of the Employer in connection with an investigation if:
1. The employee reasonably believes that the examination may result in disciplinary action against the employee; and
 2. The employee requests representation.

- B. If an employee requests to be represented at such an examination, the employer will delay the examination for a reasonable period of time, to permit the employee the opportunity to arrange representation. The examination will be delayed for up to eight hours, if there are eight hours available between the time of the employer's demand for an examination and 5:00 p.m. on the same calendar day. If a delay of eight hours will extend beyond 5:00 p.m. on the same calendar day, the examination will be held no later than 9:00 a.m. on the following calendar day, unless the parties have mutually agreed to a different time.
- C. Prior to an examination, the Employer agrees to inform the Union representative(s) in writing (which may be by email communication) of the subject of the examination. The representative(s) must also be allowed to speak privately with the employee before the examination. The Union representative(s) must be allowed to speak during the interview. However, the Union representative(s) does not have the right to bargain over the purpose of the interview. The Union representative(s) can, however, request that the employer representative clarify a question so that the employee can understand what is being asked. When the questioning ends, the Union representative(s) can provide additional information to the employer representative. Before providing such information, the Union representative(s) and the employee may briefly meet privately for purposes of discussion.
- D. The Employer is free to terminate any examination of an employee in connection with an investigation at any time for any reason.
- E. The Union shall have no right to represent an employee who is examined as a witness or third party in any investigation or to represent an employee who is being counseled by a representative of the Employer concerning conduct, performance, or any other similar work-related matter. However, if the employee learns during the course of the witness/third-party investigation that he or she may be subject to discipline, he or she may request Union representation pursuant to Section 30.3B, above.
- F. The employee must answer all work-related questions truthfully, promptly and completely.

Section 30.4 Disciplinary Examinations of Fire Investigators

The following provisions shall apply only to disciplinary examinations involving a Fire Investigator's use or exercise of police authority:

1. Prior to any interview or examination of a Fire Investigator, for which there may be criminal or civil implications¹⁶, the Fire Investigator shall be advised of the nature of the investigation.
2. At the request of the Fire Investigator under investigation for conduct that may have criminal or civil implications, the Fire Investigator shall have the right to be represented by counsel or any other representative of his or her choosing. The employee's counsel or other representative of his or her choosing may, in the discretion of the employee, be present at any interview or examination connected to an investigation for conduct that the Employer reasonably believes may result in a criminal investigation/charge or a civil action.
3. If the Fire Investigator requests to be represented at such an examination having criminal or civil implications, the Employer will afford the Fire Investigator a reasonable amount of time to arrange for representation, normally forty-eight (48) hours.

¹⁶ For purposes of this Section, the phrase "criminal or civil implications" means that the conduct for which the Fire Investigator is being interviewed or examined, if established, would likely result in a criminal charge or a civil action being filed against the Fire Investigator.

4. If a Fire Investigator is examined as a witness or third-party, and it becomes evident that the Fire Investigator may be implicated in conduct for which there may be criminal or civil implications, the Fire Investigator shall have the right, upon request, to be represented by counsel or a representative of his or her choosing.

Section 30.5 Time, Place and Manner of Interviews/Examinations Conducted at the Internal Affairs Section

- A. Any interview or examination conducted by the Internal Affairs Section pursuant to sections 30.3 and 30.4 of this Article shall take place at the Internal Affairs Section office, the Union Office, or at any other place to which the parties mutually agree.
- B. Employees interviewed or examined pursuant to sections 30.3 and 30.4 of this Article shall be provided with reasonable breaks.
- C. The employee, and at the employee's discretion, the union, shall be notified by the investigating official in writing of the alleged charges or conduct for which the employee is being investigated upon notification of interview/examination being scheduled. An email communication is sufficient to meet the writing requirement under this section.

Section 30.6 Access to Records

- A. Upon issuance of a Statement of Charges, the Employer shall provide the employee or his or her counsel or chosen representative with:
 1. witness and/or complainant statements used in connection with any charge. These statements will be sanitized (address and phone number deleted.)
 2. a copy of the investigation file, including any and all transcripts; and,
 3. any and all exculpatory information in the possession of the Employer.

This information shall be provided free of charge.

Section 30.7 Days Defined

The term "days" as used in this Article shall mean calendar days. If the last day coincides with a weekend, holiday, or any other day the County Government is closed for normal business, the deadline will be moved forward to the close of the next calendar day that the County Government is open for normal business.

Section 30.8 Donation of Forfeited Annual Leave

An employee who accepts a forfeiture of annual leave in lieu of other discipline may elect to have the forfeited sum (the salary-based value of the annual leave) donated to the Union's Welfare and Benefit Fund upon written notice to the Employer.

ARTICLE 31 - UNION MEMBERSHIP ON APPARATUS SPECIFICATIONS COMMITTEE

The Apparatus Specifications Committee shall be administered pursuant to MCFRS Policy. The Union President shall appoint a bargaining unit employee for one bargaining unit position on the Committee. Subjects of the Committee shall include but not be limited to:

- A. vehicle weights;
- B. noise levels;

reimbursed by the Employer for any fees that are required to enroll in the courses.

All bargaining unit employees who are CISM team members shall be permitted to attend four (4) quarterly team meetings, each lasting up to eight hours, for purposes of training and continuing education. Bargaining unit employees shall be considered on a detail when attending such meetings during their normally scheduled work hours; and shall be compensated at 1-1/2 times their regular rate of pay for all time spent in such meetings on their day(s) off.

In addition, all bargaining unit employees who are CISM team members shall be permitted to attend thirty-two (32) hours of ICISF-approved training classes every two years. Bargaining unit employees shall be considered on a detail when attending such training classes during their normally scheduled work hours; and shall be compensated at 1-1/2 times their regular rate of pay for all time spent in such training classes on their day(s) off. Employees shall be reimbursed by the Employer for any fees that are required to enroll in the training classes.

- B. All bargaining unit employees shall receive in-station training in stress management and suicide recognition and prevention techniques no less than once every two years. Such training shall be conducted by members of the MCFRS CISM Team.

ARTICLE 36 - SHIFT STAFFING

Section 36.1 Shift Staffing and Safety

The Employer and the Union agree to cooperate in the continued development of safety programs for the purpose of achieving a safe and healthy work environment within the parameters of the firefighters/rescuer occupational series within the bargaining unit. In aid of the goal of providing a safe and healthy work environment, the Employer and the Union shall work together to promote staffing levels which achieve this goal.

Section 36.2 Labor/Management Cooperation

In aid of the provisions of Section 36.1, the Fire Chief or designee and the President of the Union agree to meet periodically to discuss and cooperate in the setting of staffing levels.

ARTICLE 37 - TRAINING REQUIREMENT

Consistent with workload requirements when a Captain or Lieutenant are not available, the officer-in-charge of an engine, truck and rescue squad will be a Master Fire Fighter/Rescuer.

ARTICLE 38 - CONTRACT GRIEVANCE PROCEDURE

Section 38.1 Definition of Grievance

A grievance is defined as a dispute concerning:

- A. The application or interpretation of the terms of this Agreement;
- B. Policies and procedures subsumed in this Agreement;
- C. Changes to existing policies and procedures; and
- D. Future policies and procedures that may violate this Agreement.

Section 38.2 Initiation of a Grievance

- A. The Union may in its discretion, in cases of suspension, demotion or dismissal only, skip step 1 of the Grievance Procedure and take a grievance directly to step 2 - the Office of Human Resources Director. If the Union exercises its discretion pursuant to this subsection, it will so notify in writing the Office of Human Resources upon filing the grievance.
- B. At the option of the Union, a grievance may be presented informally by a local representative of the Union or designee of the Union to MCFRS Labor Relations Officer or designee for resolution. If the grievance is not resolved at that stage, it may be processed as provided below.

Section 38.3 First Step of the Grievance Procedure

A grievance shall be presented in writing by the Union to the Fire Chief within twenty (20) calendar days of the date the employee knew or should have known of the event giving rise to the grievance. Provided that if the grievance is presented to the MCFRS Labor Relations Officer or designee as provided above, an additional fourteen (14) calendar days shall be added to the time provided. The Fire Chief, or his designee, and representatives of the bargaining unit, shall meet and discuss the grievance within fourteen (14) calendar days after it is presented to the Fire Chief. The Fire Chief shall respond in writing, to the grievance within fourteen (14) calendar days after the meeting.

Section 38.4 Second Step of the Grievance Procedure

The Union may appeal the decision of the Fire Chief or designee by presenting a written appeal to the Office of Human Resources Director within fourteen (14) calendar days of the Union's receipt of the Fire Chief's or designee's decision. The Office of Human Resources Director or designee and representatives of the bargaining unit shall meet to discuss the grievance within fourteen (14) calendar days after presentation of the appeal to the Office of Human Resources Director. The Office of Human Resources Director shall respond, in writing, to the grievance within thirty (30) calendar days of the meeting.

Section 38.5 Binding Arbitration

- A. Upon receipt of the response from the Office of Human Resources Director, the Union may refer the grievance to arbitration by providing written notice to the other party within thirty (30) days after receipt of the response of the Office of Human Resources Director by the Union. The arbitrator shall be chosen from a panel composed of persons agreed upon by the parties. At least sixty (60) days prior to the expiration of this Agreement, one or both parties may provide written notice to the other that it no longer consents to retaining a particular member(s) of the arbitration panel. The parties shall fill the panel vacancy by mutual consent.
- B. The arbitrators shall be selected to hear succeeding grievances in rotation, in the order agreed to by the parties. The parties must contact the arbitrator next in the rotation order within twenty-one (21) days of the date of the written notice referring the grievance to arbitration, and must schedule the arbitration date no later than forty-five (45) days following the date of the written notice referring the grievance to arbitration. If the arbitrator slated to hear a grievance cannot hold the hearing within this forty-five (45) day period, the next arbitrator on the panel that is available within this period shall be selected.

Section 38.6 Arbitration Procedures

The following procedures shall apply to all arbitrations:

- A. The parties will each pay one-half (1/2) of the arbitrator's fees and expenses, except as specified in paragraph (38.6.I and J, and 38.7) of this section.
- B. Arbitration hearings will be held on the Employer's premises or at any site to which the parties' mutually agree.

The parties may appoint representatives to attend the arbitration hearing. However, in cases where representatives may be called to give testimony in the hearing, either party may object to the presence of that individual, and the matter will be decided by the arbitrator.

- C. The grievant, the grievant's representative, and all employees who are called as witnesses will be excused from duty if required to appear on scheduled dates of arbitration.
- D. It shall be within the sole discretion of the arbitrator to determine who may testify.
- E. It is the responsibility and obligation of each party to produce its witnesses on the day(s) of the hearing.
- F. The parties will make all reasonable efforts to schedule for consecutive days arbitration proceedings expected to last more than one day.
- G. The County shall submit the following information to the Arbitrator and the Union at least fourteen (14) calendar days before the hearing:
 - 1. A complete list of charges.
 - 2. A copy of all written reports, documents, photographs, charges, letters, or other material to be introduced or used at the hearing.
 - 3. The names and addresses of all prospective witnesses, and a summary of their anticipated testimony.
 - 4. The names and addresses of witnesses and/or documents and records requiring service of a subpoena.
 - 5. Estimated time required for presentation of the case.
 - 6. Any other items, documents or records requested reasonably in advance by the Union and reasonably accessible to the County.

Except for item #1 above, the Union shall submit the same information to the Arbitrator and the County, at least fourteen (14) calendar days before the hearing.

Neither party shall be bound to introduce witnesses or documentation at the arbitration hearing. The above shall be construed as an intent only.

Requests to call witnesses, or to use documents not contained in the pre-hearing submission, subsequent to stated deadlines, may be granted only upon a showing of good cause.

If a witness cannot attend the arbitration proceeding, his or her testimony may, upon agreement of the parties, be submitted by deposition or affidavit. If subpoenas are issued, service of subpoenas shall be the responsibility of the requesting party.

- H. Prior to the arbitration proceeding, each party may request that the other party make available certain information and/or various records, documents, files (whether in hard copy or electronic form) and the like pertinent to any matter of inquiry for use in preparing for and presenting its case during the arbitration proceeding. If a party refuses to comply with such request, or does not timely reply to such request, the arbitrator may, upon motion of the requesting party, direct the party to whom the request was made to provide forthwith or by a date certain the information, records, documents, files, etc. requested. All requests must comply with the Maryland Public Information Act. The Union and the Employer may assess a fee, in no event higher than the actual cost of production, for the administrative costs associated with copying and preparing a response to the request. (Such "administrative costs" shall be limited incidental

expenses, such as the cost of paper, the cost of copying documents, the cost of computer disks or CD-ROMs, and related expenses. However, such "administrative costs" shall not include County personnel-related expenses (i.e. the costs associated with paying County employees for copying and preparing a response to the request).)

- I. The arbitrator will set the date of the hearing with the concurrence of the representatives of the parties. Requests for continuance shall be in writing, with a copy to the opposing party, and submitted to the arbitrator at least five (5) calendar days prior to the hearing date. The arbitrator may grant such request only where good cause is shown, or upon the agreement of the parties. If a cancellation fee results in the granting of a continuance, the moving party shall be responsible for said fee.
 - J. In any grievance where the parties agree to postpone, delay, and/or cancel an arbitration proceeding, they will equally share the cost of any fees being charged by the arbitrator and/or court reporter. The fact that one party has no objection to the request of the other party for postponement, delay or cancellation of the arbitration proceeding will not absolve the requesting party from its responsibility to pay all fees charged.
 - K. Once the date of the arbitration proceeding is established, the parties will contact and procure the services of an authorized court reporter for the purposes of recording and creating a transcript of the arbitration proceeding. The arbitrator and each of the parties will be provided with a copy of the arbitration proceeding transcript. The parties will equally share the cost of transcription.
 - L. The arbitrator shall have the authority to make all arbitrability and/or grievability determinations. The arbitrator shall make grievability and/or arbitrability determinations prior to addressing the merits of the original grievance.
 - M. If the Employer declares a grievance non-arbitrable or non-grievable, the original grievance shall be considered amended to include the issue of non-grievability. Such declaration may be made at any time.
 - N. Only witnesses having direct knowledge of the facts on which the charges are based will be heard. The Arbitrator will hear:
 1. Testimony directly related to the charges;
 2. Testimony indirectly related to the charges provided a relevant relationship has been established; However, where a grievance does not involve a disciplinary action but, rather, a dispute over interpretation and/or application of the parties' collective bargaining agreement, a County policy, or state or federal law, the witness restrictions set forth in this subsection may not apply.
- For the protection of all parties, hearing shall be closed to the public.
- O. The arbitrator will neither strictly enforce nor disregard the Rules of Evidence. Generally, arbitration proceedings will be conducted in an informal manner. However, the arbitrator will observe the spirit of Rules of Evidence and general decorum to avoid prejudice, surprise, undue delay, repetition, or injustice.
 - P. The arbitrator may exclude testimony or evidence that he or she determines to be irrelevant, unduly prejudicial or repetitious.
 - Q. Witness testimony shall be under oath or affirmation.

- R. The arbitrator may, direct the parties to submit post-hearing briefs if he or she determines the submittal of briefs necessary to the fair consideration and disposition of the grievance.
- S. If the parties submit post-hearing briefs, they shall each have at least thirty (30) calendar days from the date upon which they each receive an official transcript of the arbitration proceeding to do so. The arbitrator shall have at least thirty (30) calendar days from the date upon which all briefs have been submitted to issue his or her decision. The arbitrator's decision shall be issued in writing and submitted to both parties.
- T. If the parties do not submit written briefs, the arbitrator will have at least thirty (30) calendar days from the date upon which he or she receives the official hearing transcript or, if no transcript is created, at least thirty (30) calendar days from the close of the hearing, to issue his or her written decision. The requirement that the arbitrator's opinion be in writing may be waived only upon written consent of both parties.
- U. Copies of any transcripts, briefs, and decisions will be timely served on the other party and the arbitrator.
- V. This Article shall be governed by the Maryland Uniform Arbitration Act (hereinafter "MUAA"), § 3-201 et seq., Courts and Judicial Proceedings, Code of Maryland Annotated. However, to the extent that any provision of this Article directly and necessarily conflicts with the MUAA, such provision shall be controlling.

Section 38.7 Powers of Arbitrator

The Arbitrator shall not have the authority to amend, add to, or subtract from the provisions of this Agreement. He or she shall make an opinion and/or an award as he or she decides appropriate. The arbitrator's decision shall be binding on all parties. However, a party may petition the arbitrator to reconsider his or her decision or appeal the arbitrator's decision pursuant to and in accordance with the MUAA. The arbitrator may, in his discretion and upon the motion of the grievant or his or her representative, award reasonable attorney fees and costs. In exercising his or her discretion in awarding reasonable attorney fees and costs to the grievant or his or her representative, the arbitrator shall apply the standards for the award of attorney fees set forth in *Allen v. United States Postal Service*, 2 M.S.P.B. 582; 2 M.S.P.R. 420 (1980) (i.e. the grievant is the prevailing party and the award of attorney fees is warranted in the interest of justice). In the event a party elects to challenge the arbitrator's decision in court, each party shall be responsible for its own attorney's fees and costs. However, if one of the parties has no alternative but to enforce the arbitrator's decision through the courts, the non-moving party shall be responsible for the attorney's fees and expenses of the party seeking enforcement of the arbitration award.

Section 38.8 Days Defined

The term "days" as used in this grievance procedure shall mean calendar days.

Section 38.9 Processing Grievances During Working Hours

Stewards and Union representatives referred to in this grievance procedure shall be granted three hours administrative leave to process grievances pursuant to this Article during working hours.

Section 38.10 No Reprisals

The fact that a grievance is raised by an employee shall not be recorded in the employee's personnel file or in any file or record utilized in the promotion process, nor shall such fact be used in recommendations for job placement; nor shall an employee be placed in jeopardy or be subject to reprisal or discrimination for having followed this grievance procedure.

Section 38.11 Time Limits

Time limits for the processing of grievances are intended to expedite grievance handling and may be extended upon mutual agreement but, if not so extended, must be strictly observed.

Section 38.12 Waiver/Appeal

Failure of the Union to appeal a grievance within the specified time limits from the date of receipt of the Employer's answer, unless otherwise waived, will result in the grievance being resolved based upon the last Employer response. Failure of the Employer to respond within the specified time limits, unless otherwise waived, may be treated by the Union as a denial of the grievance at the applicable step.

Section 38.13 Discipline Grievances

Oral admonishments are not subject to review under this procedure. Any employee appealing a suspension, demotion, or dismissal to the Merit System Protection Board waives any right to have the action reviewed under this procedure.

Section 38.14 Exclusivity of Forum

This procedure shall be the exclusive forum for the hearing of any grievance and the exclusive remedy for any grievance as defined in Section 38.1, with the exception of discipline grievances as defined in Section 38.13.

Section 38.15 Granting of Relief

Relief that is granted at any level of this procedure, as stated in any formal grievance, shall end further processing of the grievance.

Section 38.16 Duty to Notify

The Union is the proper party to initiate grievances on behalf of a fire and rescue bargaining unit employee in accordance with the procedures in this Article. If a bargaining unit employee files an individual grievance with the Personnel Office under the merit system law (that) is determined by the Employer to be on a subject of this agreement, the Employer shall notify the Union of the filing of the grievance. The Employer may only provide the Union with the employee's name and the subject of the grievance. An individual employee's filing of such a grievance under the merit system law is a violation of the procedures in this Article.

Section 38.17 Alternative Dispute Resolution Processes

The Union and the Employer share a joint interest in resolving disputes arising from the implementation of discipline and other terms and conditions of employment. In order to minimize these disputes and improve the efficiency of governmental operation the parties agree to voluntarily utilize the following processes.

A. Pre-discipline Settlement Conferences

1. After a statement of charges is issued, but before the notice of disciplinary action is issued, the parties may voluntarily agree to a pre-discipline settlement conference.
2. Up to two (2) standing committees (with alternates) to review proposed discipline may be established.
3. Committee makeup – three (3) members (one Management representative, one OHR representative, and one Union representative).
4. Participation is voluntary; the Office of Human Resources makes the final decision for

County participation.

5. The Committee will review the recommended level of discipline and the facts of the case, and will make a non-binding recommendation. Each side is permitted to make a brief presentation before the Committee. Presentation and format shall be established by the Committee.
6. If the parties agree with the recommendation of the Committee, Notice of Discipline will be issued and the Union agrees to refrain from filing a grievance regarding such notice. If the Union disagrees with the Committee's recommendation, it is free to grieve the Notice of Disciplinary Action. If the County disagrees, it may go forward with the notice as originally proposed.
7. The settlement conference option is part of the informal resolution process of the Contract Grievance Procedure. A bargaining unit employee waives any right to challenge before the County's Merit System Protection Board (MSPB) any proposed suspension, demotion, or dismissal action that he or she attempts to resolve through a settlement conference pursuant to this Article.
8. At either parties' request, a Non-MCFRS management representative (selected from an existing MCGEO Pre-Discipline settlement Conference Committee) will replace the MCFRS management representative.
9. The County shall provide new Committee members with training in Alternative Dispute Resolution and related disciplines, as appropriate.
10. Rules of procedure will be established by the parties.

B. Grievance Mediation

1. Upon receipt of the Step 2 Office of Human Resources Director's disposition, the Union and Employer may voluntarily agree to grievance mediation. Grievance mediation request must occur prior to deadline for invoking arbitration. If the parties agree to attempt mediation, the arbitration proceeding will be stayed pending exhaustion, as determined by one of the parties, of the mediation process.
2. Mediator names are to be selected, if available, from FMCS.
3. Participation is voluntary.
4. At grievance mediation each party's presentation will be limited to a brief oral argument.
5. Cost of grievance mediation is split.
6. A mediated solution to the grievance resolves the grievance.
7. Rules of procedure will be established by the parties.

ARTICLE 39 - UNIFORM ADVISORY COMMITTEE

- A. In order to continue to review the safety of the uniform worn by DFRS employees, and to develop facts and information to aid in the revision of policies pertaining to the components of the Class C and E Uniforms, the parties agree to maintain an advisory committee. The Uniform Advisory Committee shall meet a reasonable number of times throughout each year, but at least quarterly, to continue to review and address safety matters related to bargaining unit employee uniforms. The Committee shall meet at least quarterly. However, upon the request

ARTICLE 40 - EMPLOYEE STATUS

Section 40.1 Notice to Employees

The following notice shall be included with all actions from the Employer to bargaining unit employees by reason of any disciplinary action, termination, reduction in force notice, demotion, promotion, reduction-in-salary:

NOTICE TO BARGAINING UNIT EMPLOYEES

You are entitled to be represented in this matter by Montgomery County Career Fire Fighters Association, Local 1664, International Association of Firefighters, AFL-CIO (Union). If you do/do not wish a copy of documents relating to this matter sent to the Union, indicate by checking the appropriate space below:

☐

I do wish the Union to
receive documents relating
to this matter

☐

I do not wish the Union to
receive documents relating
to this matter

Employee's Signature

Date

Section 40.2 Posting of Seniority List

The Employer shall post annually a current seniority list. The Employer shall submit the proposed seniority list to the Union by August 15 of each year. Thereafter, within seven (7) calendar days of receipt of a draft seniority list from the Union, the Employer shall post the draft list at all work sites. Employees may then submit objections to the draft list to the Union within the time indicated on the draft list (as determined by the Union), following which the Union and the Employer shall prepare a final seniority list. The Employer shall post the final seniority list at all work sites within seven (7) days of an agreed upon list.

Section 40.3 Class Specification

The Employer will provide, upon request, copies of current class specifications covering bargaining unit employees.

Section 40.4 Domestic Partners

For purposes of this Agreement, domestic partners are two people of the same or opposite sex, at least one of whom is in the bargaining unit, and who either:

- A. Are each at least 18 years old, have consented to share a voluntary, close personal relationship without fraud or duress and are responsible for the welfare of one another. Domestic partners shall have shared the same legal residence for not less than twelve months; and shall not be married to, or engaged in a domestic relationship with, another person. Domestic partners may not be related by blood or affinity in a way that would disqualify them from marriage under Maryland law if either of the partners were of the opposite sex. Domestic partners must be legally competent to enter into legal agreements and share sufficient financial and legal obligations to provide evidence of eligibility for this benefit. In claiming any right under this Agreement relating to a domestic partnership, a bargaining unit member and/or the member's partner will either be required to sign an affidavit under penalty of perjury declaring that they

meet the requirements of this subsection and provide sufficient evidence of the domestic partnership as provided in subsection C of this Article, or

- B. Have legally registered their domestic partnership if a domestic partner registration system exists in the jurisdiction where the unit member resides and the County determines that the legal requirements for registration are substantially similar to the requirements set forth in Section A(1) of this Article. The County will require a unit member to provide an official copy of the domestic partnership registration and provide the evidence described in subsection C of this Article.
- C. Evidence of sufficient financial and legal obligations includes at least two of the following: joint housing lease, mortgage or deed; joint ownership of a motor vehicle; a joint checking or credit account; designation of the partner as a primary beneficiary of the unit member's life insurance, retirement benefits, or residuary estate under a will; or designation of the partner as holding a durable power of attorney for health care decisions concerning the unit member.
- D. Benefits extended to domestic partners under this Agreement terminate upon termination of the domestic partnership by death or dissolution or under any other change in circumstances that initially qualified the domestic partnership under subsection A of this Article. The unit member must notify the County within 30 days of the termination of domestic partnership or any change in circumstance. However, upon termination of the relationship the employee shall be immediately entitled to all benefits for which s/he would have been eligible absent the domestic partnership.
- E. All records and files concerning domestic partnerships shall be maintained in accordance with Article 26 of this Agreement. The Union shall be provided information necessary to monitor, implement, and administer this Agreement as it relates to domestic partnerships. Further, the Union agrees to keep all information confidential.
- F. Notwithstanding Article 38 of this Agreement, contract grievances alleging a violation of any provision of this Agreement relating to domestic partnerships shall be submitted to the Director of Human Resources for the County instead of to employees within MCFRS; and if not resolved at the Director's level, the grievance may be referred to arbitration in accordance with Section 38.6 of this Agreement. Copies of the grievance shall not be sent to MCFRS managers or supervisors.

ARTICLE 41 - PRINTING OF CONTRACT

The County agrees to print 300 copies of the contract in booklet form to be provided to the Union within ninety days of the effective date of this Agreement. The cover page of the Agreement shall be designed by mutual agreement between the parties. The cost of printing shall be shared equally by the parties. The County agrees to provide the Union four (4) first run copies of the printed Agreement prior to publication to proof read. The County agrees to correct all spelling and grammatical errors found during proof reading prior to publication and disbursement. Additionally, an e-mail will be sent to all bargaining unit employees containing a hyperlink to the final electronic version of the agreement.

ARTICLE 42 - ECONOMIC AND NON-ECONOMIC PROVISIONS

Section 42.1 Economic Provisions

- A. In the event any economic provision of this Agreement becomes inoperative for any reason,

that provision shall be subject to re-negotiation at the request of either party.

- B. If, after negotiations, the parties are unable to agree, the matter shall be referred to an Impasse Neutral for resolution.
- C. If the new impasse is the result of action or inaction of the Montgomery County Council, the procedures provided for in Section 33.153(o,p), of the Montgomery County Code, shall be followed.

Section 42.2 Non-Economic Provisions

- A. In the event any non-economic provision of this Agreement becomes inoperative, that provision shall be subject to re-negotiation at the request of either party.
- B. If no agreement is reached, the controversy shall be referred to impasse as provided in Section 42.1(B) of this Article.
- C. Changes in any benefit applicable to other Montgomery County Employees shall be made applicable to the bargaining unit provided they are non-economic or if the cost/value is negligible. Any dispute or disagreement concerning the application of this paragraph shall be referred to an Impasse Neutral for resolution. The parties shall meet and discuss any other changes in such benefits and incorporate any agreement reached into this Contract.

ARTICLE 43 - IMPASSE/FACT-FINDING

In the event that either party declares that an impasse has been reached in negotiations over wages, benefits, hours and other terms and conditions of employment, either party may submit the matter to impasse resolution as outlined in Section 33-153 of the Montgomery County Code.

ARTICLE 44 - SEVERABILITY

If any term or provision of this Agreement is, at any time during the life of this Agreement, determined by a court of competent jurisdiction to be in conflict with any applicable law, constitution, statute, or ordinance, such term or provision shall continue in effect only to the extent permitted by law. If any term or provision is so held to be invalid or unenforceable (or if the parties agree that it is), such invalidity or unenforceability shall not affect or impair any other term or provision of this Agreement.

ARTICLE 45 - ACTION BY MONTGOMERY COUNTY COUNCIL

Pursuant to Section 33-153(p) of the Montgomery County Code this agreement shall provide for automatic reduction or elimination of wage and/or benefits adjustments if:

- (1) The Council does not take action necessary to implement the agreement, or a part of it;
- (2) Sufficient funds are not appropriated for any fiscal year when this Agreement is in effect.

ARTICLE 46 - UNIFORMS AND EQUIPMENT

Section 46.1 Uniform Footwear

Employees may apply the value of uniform footwear to optional footwear in accordance with MCFRS Policy & Procedure No. 06-09 "Apparel Policy" dated July 20, 2009.

Section 46.2 Safety Apparel/Equipment

Each employee covered by this agreement will be provided:

- 1) two pairs of fire fighting gloves; and
- 2) one (1) large gear bag for each full set of gear (i.e. turn-out gear, boots and a helmet).

Replacements for these items shall be in accordance with the criteria set forth in DFRS Policy and Procedure No. 516.

Section 46.3 Personal Property Replacement

The Employer shall reimburse employees for the replacement of personal items that are lost, damaged or stolen while in the performance of their duties, provided the item(s) is moderately priced, it was reasonable to use the item(s) on duty and the loss, damage or theft was not as a result of negligence. Employees are required to immediately report the loss of, or damage to their personal property to the immediate supervisor, and follow the Employer's procedure for completing the Supervisor's Incident Investigation Report.

Section 46.4 Class C Uniform

The Class C Uniform for bargaining unit employees shall be in accordance with MCFRS Policy & Procedure No. 06-09 "Apparel Policy" dated July 20, 2009.

Section 46.5 Fire & Explosive Investigations Uniforms

The normal uniform for bargaining unit employees assigned to the Fire & Explosive Investigations Section shall consist of "B.D.U." style cotton pants and a short or long sleeve cotton shirt embroidered with a badge or the County emblem. If the Employer directs an employee to wear alternative attire on an assignment that involves specialized enforcement activities (e.g. where an inconspicuous appearance would be beneficial to the investigator), the employee is required to comply. An employee must wear professional business attire (e.g. a suit and tie, dress shoes, etc.) when attending judicial or administrative proceedings, or as directed by his or her supervisor.

Section 46.6 Department-Issued Body Armor

All bargaining unit employees assigned to the Fire and Explosive Investigations Section are encouraged to wear their Department-issued body armor to enhance their personal safety. The parties understand that wearing body armor is normally voluntary and within the discretion of the employee. However, bargaining unit employees assigned to the Fire & Explosive Investigations Section shall wear the body armor during ad hoc, high-risk assignments, although these employees shall not be required to wear it while waiting to be activated for such actual assignment. For the purposes of this section, the Employer has determined that "high risk" involves other than normal risk or calls for service, and includes but is not limited to civil disturbances, raids, hostage situations, and in-person service of search and arrest warrants. Department-issued soft body armor will be the same brand and model issued by the Montgomery County Police Department. The Employer will replace Department-issued soft body armor prior to the expiration date designated by the manufacturer.

ARTICLE 47 - EMPLOYEE ASSISTANCE PROGRAM

Section 47.1 Employees Assistance Program (EAP)

- A. The Employer shall continue to maintain the MCFRS Employee Assistance Program for bargaining unit employees that was established through prior negotiations and shall assume the full cost of the program. Bargaining unit employees shall continue to be eligible to participate in the County's Employee Assistance Program (EAP). All communications between employees and therapists of either the MCFRS EAP or the County's EAP are confidential.
- B. All notes, records or tapes regarding interviews, evaluations or treatment provided by the MCFRS EAP to a bargaining unit employee shall not be communicated or released without the express written permission of the employee or his/her authorized representative, unless disclosure is otherwise authorized by law.
- C. All notes, records or tapes regarding interviews, evaluations or treatment provided by the County's EAP to a bargaining unit employee will be held in confidence, to the extent the County can control the actions of the County's EAP, unless disclosure is otherwise authorized by law.

Section 47.2 Critical Incident Stress Management Team [Peer Support]:

The County shall provide legal representation to Montgomery County Fire/Rescue bargaining unit employees who make disclosures to, or who are members of, the Critical Incident Stress Management Team (CISMT) in any local, state, and federal civil, criminal, and administrative actions to protect the privilege provided by the Courts and Judicial Proceedings Article, Section 9-109 of the Maryland Annotated Code as amended, or other applicable statute. If a conflict exists under the Rules of Professional Conduct, each employee where the conflict exists, will be represented by separate counsel. The County will not use information in any administrative investigations or proceeding that a CISMT member obtained from a MCFRS bargaining unit member who communicates with the CISMT member under an understanding of privilege described in the Courts and Judicial Proceedings Article, Section 9-109 as amended. However, if a MCFRS bargaining unit employee discloses information outside of the CISM program, that information may be used as long as the information is otherwise admissible within the bounds of law and contract provisions. Information that was disclosed to a CISMT member in confidence or which is privileged may not be used to corroborate, impeach, or otherwise support any non-privileged disclosure in any County administrative proceeding. A Fire/Rescue bargaining unit employee participating as a member of the CISMT and acting pursuant to the direction of the psychologist or psychiatrist in charge is acting within the scope of the bargaining unit employee's employment for purposes of the Local Government Tort Claims Act. This agreement does not require the County to have or maintain a CISM program, but requires the County to provide the protections described in this agreement for bargaining unit employees who participate in the CISM program whether as a member of the team or in seeking service from the CISMT.

ARTICLE 48 - JOB SHARING PROGRAM

Section 48.1 Purpose and Administration

The purpose of this program is to allow certain bargaining unit employees the opportunity voluntarily to share a job while working in a part-time/half-time appointment to enable them to care for immediate family dependents. The administration of this program shall not be done in an arbitrary, capricious or discriminatory manner. In order to make the program possible, the county intends unilaterally to create an even number of job sharing, half-time positions within the Montgomery County Fire and Rescue Services. The County has advised that it intends to create at least two such positions as needed to accommodate at least four unit members who participate. It is recognized that the County is not obliged to

create, staff or maintain half-time/part-time positions.

Section 48.2 Eligibility

- A. Any two bargaining unit members of the same class specification who work a 40 hour work week may apply for this program by requesting a part-time/half-time position, whereby each member works twenty (20) hours per week and thereby shares a full-time bargaining unit job. Work assignments shall be determined by the employer.
- B. Any two bargaining unit members of the same class specification who work a 42 hour work week may apply for this program by requesting a part-time/half-time position, whereby each member works twenty-one (21) hours per week and thereby shares a full-time bargaining unit job. Work assignments shall be determined by the employer.
- C. Any two bargaining unit members of the same class specification who work a 48 hour work week may apply for this program by requesting a part-time/half-time position, whereby each member works twenty (24) hours per week and thereby shares a full-time bargaining unit job. The employer shall determine work assignments.

Section 48.3 Compensation

Bargaining unit employees in part-time/half-time position(s) will be compensated at their regular hourly rate of pay for all regular hours worked. Work in excess of the regular workday (eight, ten, twelve, or twenty-four hours, as applicable) or forty (40), forty-two (42), or forty-eight (48) hours, (as applicable) per week shall be compensated at the rate of time and one-half.

Section 48.4 Hours and Other Working Conditions

- A. The regular workweek for bargaining unit employees in part-time/half-time position(s) will be twenty (20), twenty-one (21), or twenty-four (24) hours, as applicable (half-time), except for mandatory in-service training and for approved additional hours worked voluntarily.
- B. The employer shall determine the schedule for Job Sharing employees. Job Sharing employees shall be provided work schedules pursuant to the procedures in Article 23 of this Agreement. Job sharing employees may suggest a work schedule to the appropriate supervisor.
- C. The provisions of Article 14 of this Agreement shall apply to Job Sharers, except that the Employer has agreed to pay overtime to a Job Sharer assigned to a work schedule in excess of twenty (20), twenty-one (21), or twenty-four (24) hours, as applicable, for the purpose of avoiding paying overtime to other, available personnel whom the employer deems competent.

Section 48.5 Benefits

- A. Retirement Benefits. While in the program, the Job Sharing employee will earn retirement service credits and contribute to the retirement system as provided by the Employees' Retirement System.
- B. Long Term Disability Benefits and premiums shall be governed by the group policy applicable to bargaining unit employees.
- C. Life Insurance Benefits for Job Sharing employees shall be paid on the appropriate pro rata basis.
- D. Tax Deferred Compensation. The maximum deferred salary amount shall be in accordance with section 457 of the Internal Revenue Code.
- E. Article 16, Holidays shall be applied to Job Sharers as follows: Each job sharer shall receive

holiday compensation on a 50% pro rata basis.

- F. Annual and sick leave accrual shall be prorated based upon the number of regular hours a Job Sharer is in a paid status per pay period, as provided in Articles 6 and 7 of this Agreement. Paid status includes regular hours worked and all paid leave taken.
- G. If a job sharer becomes disabled in the line of duty, his/her disability retirement pension amount shall be affected in one of the following ways, at the County's option:
 - 1. In accordance with existing practice, prior to the effective date of the employee's retirement, the disabled employee will be restored to duty on a full-time basis so as to enable her/him to qualify for the same benefit she/he would have received had she/he been in full-time service when disabled, subject to the limitations set out below.
 - 2. The County Retirement System (Group G) shall be amended to provide that a Job Sharer's disability retirement benefit shall be based upon the full-time salary she/he would have been earning had she/he not been in the program.
 - 3. The benefit provided for in this sub-section (7) shall not be paid to a "Highly Compensated Employee" within the meaning of §414(q) of the Internal Revenue Code and shall in no event exceed 100 per cent of the participant's average compensation for his/her high three years. The benefit may be terminated or modified, after compensation between the parties, if the Internal Revenue Service advises that it jeopardizes the qualification of the Employees' Retirement System.
- H. The following rights and benefits shall be prorated:
 - 1. Tuition Assistance (ETAP and JITAP only, where the employee is eligible to participate), Parental Leave, Disability Leave, Seniority for purposes of Article 27 of this Agreement, sick leave donations, and all Special Duty Differentials identified in Article 17 of this Agreement.
 - 2. The following rights and benefits shall not be prorated:
Uniforms and Equipment, Grievance Rights, Shift Differential, Call-Back Pay, General Emergency Pay, Bereavement Leave, Administrative Leave, and Annual and Compensatory Leave Carryover.
 - 3. Any right or benefit not listed in this section and disputed may be grieved and arbitrated pursuant to Article 38 of this Agreement.

Section 48.6 Effects of Certain Actions

- A. Job Sharing may be terminated upon: promotion; request of the employee; or for operational reasons determined by the Employer. Except that the Employer will not use termination from the Job Sharing program as a disciplinary sanction. In the event the Employer terminates the employee from the program involuntarily, the affected employee will receive ninety (90) days notice before being transferred. Any such termination by the Employer will not be arbitrary, capricious or discriminatory. If an employee requests full-time status, the Employer agrees to place the employee in a full-time position in the bargaining unit at the same base salary within six (6) months. The full-time position shall be determined by the Employer.
- B. Any furlough of a Job Sharing employee shall be prorated according to the employee's position equivalency.
- C. Increment dates shall not be changed as a result of participation in the Job Sharing program.

- D. Initial implementation of the program shall commence not sooner than one full pay period, nor later than three full pay periods after the application of two bargaining unit employees who meet the application and eligibility requirements of this Agreement.

Section 48.7 Training Requirements, Certifications, and Re-certifications

It is agreed that it shall be the responsibility of each Job Sharing Employee to maintain all certifications, re-certifications, and training requirements for their position. Should it be necessary for a job sharing employee to attend training sessions during off-duty time, compensation shall be governed by DFRS Policy and Procedure 1201.

Section 48.8 Unilateral Re-opener

It is recognized that the County intends to create, staff and maintain sufficient half time positions to make it possible for at least four employees to participate in the job sharing program created by this Article. If the County does not implement and maintain that intent, then it is agreed that the County shall give the union and all participants at least six (6) months notice and shall promptly resume bargaining over the provisions of a replacement article to implement the parties' commitment to a job sharing program. Failing prompt agreement, either party may declare impasse and the dispute shall be expeditiously submitted to a neutral selected in accordance with the Fire and Rescue Collective Bargaining Law for the last best total package offer binding arbitration.

ARTICLE 49 - COMPENSATORY TIME

Section 49.1 Limitations on Accrual of Compensatory Time

A bargaining unit employee who has a compensatory time balance in excess of 80 hours at the end of the leave year (96 hours for an employee assigned to a 2496-hour work year) may elect to be paid for the excess hours by the first pay period following March 15 of the succeeding year or to carry them over for one year. The carry-over of excess compensatory time must be reduced by no later than December 31 of the succeeding leave year. Unused compensatory time granted to implement a furlough shall be added to the member's compensatory leave balance at the end of the furlough period and treated as above.

Section 49.2 Withholding or Adjustment of Accumulated Compensatory Time

Whenever an employee is indebted to the County, the amount due may be deducted from accumulated compensatory time. Any objection to the deduction may be grieved in accordance with the procedures established in Article 38 of this Agreement.

Section 49.3 Use of Compensatory Time for Purchase of Retirement Service Credits Under the Provisions of the Employee's Retirement System of Montgomery County

An employee wishing to purchase retirement service credits pursuant to the appropriate provisions of the Employees' Retirement System of Montgomery County, may authorize the conversion of accrued compensatory time to a cash value for the purpose of depositing this amount under the retirement system. Not more than 80 hours of compensatory time (96 hours for an employee assigned to a 2496-hour work year) may ever be used for purchase of retirement service credits. The lump-sum cash value of the compensatory time is to be based on the employee's rate of pay as of the date of conversion. The use of compensatory time for this purpose is subject to the availability of lapsed salary monies within an employee's department and to the provisions of the Employees' Retirement System of Montgomery County. Whenever an employee converts compensatory time for the purpose of purchasing retirement service credits, lapsed salary monies in the employee's department or agency may be used, and the monies may be transferred to the Employees' Retirement System of Montgomery County, whenever recommended by an

employee's department head or agency head and approved by the Chief Administrative Officer.

Section 49.4 Compensatory Leave Credit

Each bargaining unit member assigned to a 2,496-hour work year and at Step 0, LS1 or LS2 on the pay scale shall, on a one time basis, be credited with 72 hours of compensatory leave on their service increment date. Each bargaining unit member assigned to a 40- or 42-hour work week and at Step 0, LS1 or LS2 on the pay scale in FY10 shall, on a one time basis, be credited with a prorated number of hours of compensatory leave on their service increment date. This compensatory leave must be used as leave.

Section 49.5 Additional Compensatory Leave Credit

Effective January 1, 2011, each bargaining unit employee who is assigned to a 2,496-hour work year and who: (1) will not receive a service increment in FY 2011 or (2) will not receive a longevity step increase in FY 2011 shall be credited with 48 hours of compensatory leave. Effective January 1, 2011, each bargaining unit employee who is assigned to a 42-hour or 40-hour workweek and who: (1) will not receive a service increment in FY 2011 or (2) will not receive a longevity step increase in FY 2011 shall be credited with a prorated number of hours of compensatory leave. Leave under this section may not be used if it causes the need to backfill with overtime. Leave granted under this section cannot be paid out under the procedure outlined in 49.1 above and will not apply to the maximum carryover described therein. These hours may be rolled over from leave year to leave year. Leave granted under this section will not be paid out upon separation.

ARTICLE 50 - DURATION OF CONTRACT

Section 50.1 Three-Year Agreement

The duration of this Agreement shall be from July 1, 2013 through June 30, 2016. In the second year of the agreement, the parties agree to a re-opener on the following items: wages, service increments, longevity, special duty differentials, casual leave, worker's compensation and disability leave. Bargaining for this re-opener shall commence no later than November 1, 2014 and shall follow the procedures set forth in Chapter 33-153 of the Montgomery County Code. The results of this re-opener shall be effective July 1, 2015 unless mutually agreed by the parties.

In addition, the issue of random drug testing of bargaining unit employees, including applicable standards and procedures, shall be included in the reopener negotiations in the second year of the agreement, except however, that random drug testing shall not be subject to any impasse resolution procedures. If no agreement is reached, both sides reserve their rights with respect to term bargaining for FY 17.

ARTICLE 51 - PENSIONS

- A. The employer shall submit proposed legislation to the County Council on or before July 15, 1999, amending Chapter 33, Article III of the Montgomery County Code in accordance with the following principles. Proposed legislation drafted pursuant to this collective bargaining agreement shall be reviewed and approved by both parties prior to submission to the County Council. The following changes will effect only those retirement applications filed after the adoption of the legislation.
 1. Amend Montgomery County Code § 33-43A to provide that any employee who is or becomes entitled to benefits pursuant to § 9-503 of the labor and employment article of the

- F. Prior to September 1, 2009, the Employer shall submit legislation to the County Council providing that the representative selected by MCCFFA and approved by the County Executive to serve on the Board of Investment Trustees shall be designated as an Ex Officio member.
- G. Prior to September 1, 2009, the Employer shall submit legislation to the County Council providing that, for purposes of retirement benefit calculation, all bargaining unit members shall be credited at the annual salary amounts as if the postponed 4 percent general wage increase had been paid in FY10.

ARTICLE 52 – PARAMEDIC CERTIFICATION AGREEMENT

Employees in the bargaining unit who are given preferential consideration for promotion to a paramedic position will be required to sign a paramedic certification agreement consistent with Appendix IV-A. In addition, employees who as a condition of hire were required to sign a paramedic certification agreement will remain subject to the provisions of said agreement as specified in Appendix IV-B or IV-C while in the bargaining unit. The provisions of the paramedic certification agreement for bargaining unit employees are grievable and arbitrable pursuant to the procedures contained in Article 38 of this Agreement.

ARTICLE 53 - RESIGNATION

Section 53.1 Definition

Resignation: An employee's voluntary act to leave County employment.

Section 53.2 Notice of Resignation

An employee should submit a written resignation **to the Fire Chief** 2 weeks before the effective date of the resignation. In unusual circumstances, an employee may submit an oral resignation.

Section 53.3 Withdrawal of Resignation

- A. An employee may withdraw a resignation within 5 calendar days from the date the employee submitted the resignation.
- B. The **Fire Chief** may approve or deny a written request to withdraw a resignation that is submitted more than 5 calendar days from the date the employee submitted the resignation.

Section 53.4 Appeal of Resignation

A bargaining unit employee may appeal a resignation that the employee believes was involuntary or coerced by filing a grievance under Article 38 of the Agreement.

ARTICLE 54 – TUITION ASSISTANCE

Section 54.1

The Employer-administered tuition assistance fund is available to bargaining unit employees to help pay the costs of education or training.

Section 54.2

Employee tuition assistance is available to bargaining unit employees on a first-come, first-served basis. Once the tuition assistance funds are depleted for the fiscal year, tuition assistance is not available

until the next year.

Section 54.3

The Employer may approve the use of Employer-administered tuition assistance to pay for:

- A. **training or education directly related to the employee's current job functions or career ladder in the same job series or profession; or**
- B. **coursework toward a degree or certificate program, in which the employee is enrolled, in a field of study that will prepare the employee to make a career change within the County government.**

Section 54.4

Employees may, with the Employer's approval, use the Employer-administered tuition assistance funds for training or education offered by a public or private:

- A. vocational or business school **which is accredited by a recognized accrediting agency;**
- B. college or university **which is accredited by a recognized accrediting agency;**
- C. professional, scientific, or technical institute; or
- D. organization or component of an organization, including a government agency or business, that offers courses or training.
- E. **All short term training programs must relate to the employee's current job or career ladder in the same job series or profession.**

Section 54.5

The following are acceptable educational objectives that an employee may pursue with tuition assistance funding, if the training or education meets the requirements of **Section 54.3 and 54.4** above:

- A. education or training to obtain a certificate, associate degree, baccalaureate degree, or graduate degree; or
- B. a credit course, non-credit course or seminar.

Section 54.6

Only the cost of tuition and other direct or compulsory costs of the course such as matriculation, registration, laboratory, and library services are covered by tuition assistance.

Section 54.7

The following do not qualify for tuition assistance:

- A. credit courses taken on an audit (i.e., no grade) basis;
- B. books, supplies, and application fees, or extra fees such as late registration or library book returns, parking, travel, food, lodging, and other costs incidental to the credit courses;
- C. if the tuition assistance benefit would duplicate benefits received for the same educational activity under other programs such as scholarships, veterans' benefits, and educational benefits provided under the Maryland State Fireman's Association.
- D. **credit by examination courses (courses in which credit is obtained solely by taking an examination);**
- E. **courses taken outside of the United States; or**

- F. courses which are primarily recreational, or utilize a specific faith-based method as a primary approach to problem solving or treatment.

Section 54.8

An employee receiving tuition assistance must participate in the educational activity **either:**

- A. during the employee's off-duty hours; or
- B. on approved leave, **provided that an employee may not be granted leave other than: (1) annual, (2) compensatory, (3) personal leave or (4) administrative leave while in "MIDS" status (with medical clearance from FROMS) specifically for the purpose of participating in an activity funded in whole or in part by this program.**

Section 54.9

If an employee does not complete the course work successfully, the employee must reimburse the County in full for all tuition assistance paid by the County for that activity. **Final Grades or certificate of completion must be provided to OHR upon completion of the course. Reimbursement under this Section shall be handled in accordance with Section 19.4(A), *Recovery of Overpayment to Employee or Employee Debt to County*, of this agreement.**

Section 54.10

An employee who received tuition assistance must agree to remain a County employee for at least one year after completing the course. If the employee does not remain employed by the County for the entire one-year period, the employee must repay a prorated amount of the tuition assistance. The tuition assistance does not have to be repaid if the employee dies or retires on a County disability retirement. The Employer may waive repayment of tuition assistance in other extenuating circumstances.

Section 54.11

The County will increase the maximum annual allowance payable to a bargaining unit employee under the Employee Assistance Program to \$1,830 for **the duration of this agreement.**

ARTICLE 55 – SERVICE INCREMENTS

Section 55.1 Definitions

- A. Service increment: An increase in base salary granted on an annual basis to an eligible employee whose performance is at least satisfactory.
- B. Service increment date: An employee's date of employment, unless the increment date has been reassigned to a different date.

Section 55.2 Eligibility for Service Increment

An employee with merit system status is eligible for a service increment if:

- A. the employee's performance during the rating period is at least satisfactory, meaning the equivalent of a "Satisfactory Performance" rating; and
- B. the employee's salary is below the maximum for the employee's pay grade.

Section 55.3 Effective Date of Increment

A service increment must be effective on the first day of the pay period in which the employee's increment date falls.

ARTICLE 58 - IAFF DEFERRED COMPENSATION PLAN

Section 58.1

The International Association of Fire Fighters, Local 1664, AFL-CIO (IAFF) may offer and administer an eligible governmental deferred compensation plan under Section 457 of the Internal Revenue Service Code and IRS Revenue Ruling 2004-57. The parties acknowledge and agree that the County shall not function as a plan fiduciary except as required by federal law, and will not be responsible for the administration and regulatory compliance of said plan, and the IAFF agrees to indemnify the County against any claim or loss arising out of the operation of the plan.

The County shall remit unit member contributions to said plan's trust. Said contributions shall be authorized by the unit member with the IAFF or said plan's third party administrator, who will provide the County with data, in a format approved by the County so that the County can remit said contributions to the trust. The County's administrative responsibility shall be limited solely to the transfer of said contributions. At that time, unit members may no longer contribute to the County's deferred compensation plan.

Unit members have a one-time election to keep his or her current account balance in the County's deferred compensation plan. If no election is made in a form and manner to be agreed by the parties, the current account balance shall be placed in the union offered 457 plan and the unit member shall be responsible for costs (back load fees), if any, associated with such transfer. Transfers of assets from the County's deferred compensation plan must comply with all IRS rules and regulations and any such transfer shall be deemed elected by the unit member. No assets will be transferred from the County's deferred compensation plan into said plan, unless said plan is eligible to receive said transfers. All new contributions of current unit members and new hire contributions must be contributed to the union plan. However, if a member becomes ineligible to participate in the union offered 457 plan, then they may no longer contribute to the union offered 457 plan and may elect to transfer said assets to the County plan. If no election is made, in a form and manner to be agreed, the account balance shall remain in the union offered 457 plan. The participant shall be responsible for costs (back load fees) associated with such transfer.

The IAFF must provide the County an opinion of counsel letter upon establishment of the plan stating that the said plan meets the definition of an eligible governmental deferred compensation plan under Section 457 of the Internal Revenue Code. The IAFF shall provide the County with certificates of insurance that confirm that the IAFF has and maintains insurance against a breach of its fiduciary duties to its members who are county employees; the insurance and certificates must reflect that the County is an additional insured under the policies and the insurer must be licensed to do business in the State of Maryland; the insurance shall be in the minimum amount of \$ 1 million dollars for all claims per year. The County agrees to pay towards the IAFF's cost of this insurance up to the amount of any difference in cost that it receives as a result of transferring funds from its Plan to the IAFF's Plan, and any additional cost will be borne by the IAFF. The IAFF must contract with a trustee acceptable to the County (County's determination that a trustee is not acceptable must be reasonable) to hold the assets of the plan and must contract with an independent investment consultant to monitor the designated union investments so that the IAFF may perform its fiduciary duty to its members with respect to those funds. Once the Plan is established, the County will seek a private letter ruling (PLR) from the IRS approving said plan, and the union will join in such application. If the IRS recommends corrections to said plans, the plan and language in the collective bargaining agreement shall be amended to bring the plan into compliance to satisfy the requirements of the IRS and that of an eligible 457 plan. However, such assurance that said plan remains in compliance with Section 457 of the Internal Revenue Code shall be required upon establishment of said plan and periodically thereafter as requested of the County or by its independent auditors. The County shall not be required to remit contributions to said plan's third party administrator in the absence of such reasonable assurance. The IAFF may carry out provisions in this Agreement by forming a single trust with one or more

other Montgomery County collective bargaining unit representatives to form a single trust to administer the plan.

Section 58.2

The parties may agree to establish an Open Season for Deferred Compensation Plans. Such agreement will not take place, nor will it be announced, prior to December of 2007. If such an agreement is reached, the parties will establish the terms and conditions thereof.

Note: The Union proposes that Article 58 of this Agreement, which is set forth in a Memorandum of Agreement between the parties (executed on October 11, 2004), be incorporated in its entirety into the June 30, 2005 Agreement. The Memorandum of Agreement is appended to this proposal.

- A. Upon notice by the IAFF that the IAFF deferred compensation plan is prepared to accept auto enrollments, the employer agrees to withhold from unit members' biweekly pay such contributions as specifically directed by the IAFF or its administrator. The IAFF or its administrator is responsible for notifying employer of any contribution change.
- B. Employees may opt out of any auto enrollment program at anytime in accordance with terms established by the IAFF and such opt out requests shall be transmitted to the employer by the Plan or its administrator for processing consistent with existing protocol for contribution changes. The IAFF will administer the auto enrollment arrangement in accordance with all applicable state and federal laws, including but not limited to:
 - a) Preparing and distributing all required notices on a timely basis,
 - b) Processing withdrawals of contributions made within the first 90 days of participation, and
 - c) Establishing default investments.
- C. In accordance with applicable IRS regulations and guidance, an employee may elect to defer into the employee's deferred compensation account all or a portion of accumulated leave that has been approved by the CAO to be paid to the employee. Such an election is subject to the maximum allowable compensation deferral under applicable tax law. The employee must make the election for a specific dollar amount with the Plan Administrator of the Montgomery County Union Employees Deferred Compensation Plan. The employee will use the current election process for electing to defer compensation in the Montgomery County Union Employees Deferred Compensation Plan, and will be subject to County payroll processing deadlines. In the event the CAO approves a payout of such leave, the County shall publish an annual deferral schedule.
- D. In accordance with applicable IRS regulations and guidance, an employee separating from County service may elect, before separating from County service, to defer into the employee's deferred compensation account all or a portion of accumulated leave that would otherwise be paid to the employee upon separation of service. Such an election is subject to the maximum annual allowable compensation deferral under applicable tax law. The employee must make the election for a specific dollar amount with the Plan Administrator of the Montgomery County Union Employees Deferred Compensation Plan. The Plan Administrator of the Montgomery County Union Employees Deferred Compensation Plan will administer this provision in accordance with applicable law, including but not limited to the amending the plan document to provide for such deferrals. The employee will use the current election process for electing to defer compensation in the Montgomery County Union Employees Deferred Compensation Plan, and will be subject to County payroll processing deadlines. The County shall publish an annual deferral schedule.

ARTICLE 59 - INDIVIDUAL PERFORMANCE PLANNING AND ASSESSMENT

Section 59.1 Purpose:

To establish policies, procedures, and responsibilities for Individual Performance Planning and Appraisal (IPPA) in the Montgomery County Fire and Rescue Service for all bargaining unit employees that shall: provide an appraisal of an employee's performance; provide guidance to the employee in correcting any areas of deficiency as needed; and recognize successful performance.

Section 59.2 Components:

Performance Plan: establishment of performance expectations and developmental action plan at the beginning of each review period.

Performance Management: a supervisor's periodic observation and documentation of performance, on-going feedback, and conduct of progress discussions through out the review period.

Performance Appraisal: conclusion of the process which includes rating the performance of the employee, providing feedback, and noting progress of the developmental action plan.

Section 59.3 Definitions:

- A. Critical Standards: A performance expectation or standard critical to the competent performance of the essential duties and responsibilities of the position identified in the IPPA. Failure to perform any one critical standard at an acceptable level indicates an overall inability to perform the job and should result in an overall rating of "Does Not Meet Expectations."
- B. Developmental action plan: That portion of the Individual Performance Plan where the immediate supervisor and employee jointly establish goals for employee development when opportunities for improvement and development have been identified.
- C. Immediate supervisor: The individual responsible for assigning and evaluating an employee's work.
- D. Individual performance appraisal: An immediate supervisor's written evaluation of an employee's performance in relation to the critical and other standards in the employee's performance plan. A performance appraisal may be an interim or annual. The appraisal must be documented on the IPPA form.
- E. Interim evaluation: A performance evaluation conducted by a supervisor at a time between the annual performance evaluation to monitor a probationary employee or address a situation where an employee's current job performance is not at an acceptable level of competence.
- F. Overall rating: An overall summary rating in the employee's IPPA that best describes the employee's overall level of performance during the period covered by an IPPA.
- G. Performance plan: That portion of the IPPA that records performance expectations and standards and is the basis for assessment of the employee's work performance.
- H. Performance standard: is a written description of the quantity, quality, and characteristics of the job, the type of work to be performed, skill or knowledge to be demonstrated, or the results that the employee is expected to accomplish.
- I. Progress discussion: An immediate supervisor's periodic oral or written assessment of an employee's performance in relation to the expectations in the performance plan.
- J. Reviewing official: A Battalion Chief, Assistant Chief, or other high ranking designee responsible for reviewing the appraisal and ensuring that appropriate performance appraisal planning and

appraisal procedures were followed by the employee's immediate supervisor. A reviewing official should help resolve disagreements between the supervisor and employee on the plan or appraisal.

- K. Work Improvement Plan: A written plan developed with the employee to outline specific performance problems and or reoccurring deficiencies, required corrective actions to be taken by the employee and/or required performance to be demonstrated by a specified date. The plan may also identify the types of assistance, if applicable, to be provided by the immediate supervisor.

Section 59.4 Policy

- A. The IPPA process is directed toward accomplishing the following objectives:
1. provide direct feedback to the employee regarding work performance over the review period;
 2. assist the Montgomery County Fire Rescue Services (MCFRS) in identifying employees who demonstrate an interest and are capable and willing to assume greater responsibilities;
 3. identify employees with substandard work performance;
 4. establish a plan of action for employees requiring work performance improvement;
 5. develop action plans for professional development;
 6. recognize extraordinary performance; and
 7. provide documentation of an employee's work performance.
- B. IPPA reviews should be considered for merit increases, promotions, performance awards, demotions, dismissal, termination, or other adverse actions involving performance problems.
- C. The IPPA process is separate and distinct from the disciplinary process as defined in the collective bargaining agreement. The IPPA process does not replace, impede, or prevent the application or progression of the disciplinary process.
- D. Whenever an employee's overall performance rating does not meet expectations, a Work Improvement Plan must be established.

Section 59.5 Responsibility

- A. The Chief, MCFRS must maintain a formal procedure ensuring timely submission of IPPA forms.
- B. IPPA is the responsibility of the immediate supervisor and includes:
1. reviewing and developing performance standards for an employee at the beginning of a review period;
 2. ongoing monitoring of the employee's performance with periodic oral or written feedback, coaching, training, or other action to enhance performance;
 3. conducting periodic progress discussions, preparing interim evaluations as needed, and developing plans to improve employee performance as needed; and rating an employee on the performance standards and awarding an overall rating.
- C. IPPA signature authority will be limited to Assistant Chiefs, Battalion Chiefs, Captains, and Lieutenants. Other individuals with supervisory responsibilities may be required to provide input.

Section 59.6 Procedure

A. Review period.

1. The review period covered by the IPPA must be a minimum of four months and not exceed 12 months.
2. The annual review period will be linked to the employee's increment date or the anniversary of the employee's hire date if the employee does not receive increments.

B. Substance of a performance plan.

1. A performance plan must be established within 30 days after an employee attains merit status, begins work in a new position, or begins a new annual review period.
2. Each performance plan must state the performance expectations and standards for the employee during the review period. Performance expectations and standards should describe, at a minimum, the performance level of "Meet Expectations" in terms that allow reasonably objective appraisal. Additional information on performance above and below this rating may be provided as guidance.
3. An IPPA must be consistent with MCFRS work programs and class specifications.
4. Performance standards designated as critical elements, essential to the competent performance of the position, must be explicitly identified in the performance plan.
5. The developmental action plan must include goals to address any single performance standard(s) previously rated at the "Does Not Meet Expectation" level and be reviewed in four months.

C. Performance planning process.

1. If the employee refuses to sign the performance plan, the immediate supervisor must note on the plan that the employee saw the plan but refused to sign it.
2. An immediate supervisor must give an employee a copy of the employee's performance plan within 14 calendar days after the plan is established or revised.

D. Performance appraisal.

1. If more than one individual supervises an employee, each should participate in the performance appraisal and award of ratings. The supervisors should share this responsibility in a manner consistent with their roles in directing the employee's work. Only supervisors who have directed some aspect of the employee's work or have first-hand knowledge or documentation of the employee's performance during the review period may participate in evaluating and/or rating the employees' performance.
2. If the employee has worked for a supervisor for six months or more, the current supervisor must complete the appraisal instrument as required.
3. If an employee has worked for a supervisor for less than six months, the current supervisor should consult with the previous supervisor in order to provide a proper assessment of the employee.
4. Supervisors may utilize supplemental information from other sources based on the employees work assignment.

E. Frequency and timing of performance appraisal.

1. An immediate supervisor must give each subordinate employee at least one written performance appraisal in every 12-month period within 30 days of the end of the review period.
 2. An interim appraisal may be conducted for an employee who has been working under an IPPA for a minimum of four months. Examples of the situations where an interim appraisal may be warranted include, but are not limited to, change of supervisor, significant duty changes, and to document changes in performance. If an immediate supervisor conducts an interim appraisal, he or she must also conduct an annual evaluation for the employee at the appropriate time. With the exception of timing and re-establishment of a performance plan, all of the procedures for conducting an annual appraisal apply.
 3. Developmental action plan goals established to improve performance for performance expectations rated as "Does Not Meet Expectations" on the previous performance appraisal must be reviewed periodically. If insufficient progress has been demonstrated, the supervisor should conduct a formal interim evaluation.
- F. Substance of performance appraisals.
1. An immediate supervisor must rate each applicable performance expectation and standard established in the performance plan.
 2. An immediate supervisor must include a written summary supporting the employee's overall performance rating. This should include supporting documentation and comments about the employee's actual performance.
 3. Any employee who is rated "Does Not Meet Expectations" must have specific examples described in the narrative component of the assessment instrument explaining the basis for the rating.
 4. Documentation of performance deficiencies may include, but not be limited to, an annual or interim performance appraisal.
 5. The immediate supervisor should note accomplishment or progress toward a developmental action plan goal on the performance appraisal as appropriate.
- G. Performance rating. The immediate supervisor must rate an employee using one of the following four categories as indicated below:
1. Exceptional: This rating applies to performance that constantly exceeds the requirements identified in the performance standard outlined in the IPPA. A bargaining unit member who is rated "Exceptional" overall was rated "Exceptional" on the majority of performance requirements.
 2. Above Expectation: This rating applies to performance that has met, and exceeds the requirements of the performance standard outlined in the IPPA. A bargaining unit member who is rated "Above Expectations" overall, was rated "Above Expectations" on the majority of performance requirements.
 3. Meets Expectations: This rating applies to performance that has met the basic requirements of the performance standard outlined in the IPPA. A bargaining unit employee who is rated "Meets Expectations" was rated "Meets Expectations" on the majority of performance requirements.
 4. Does Not Meet Expectations: This rating applies to performance that has not met the basic

requirements of the performance standards outlined in the IPPA. A bargaining unit member who is rated "Does Not Meet Expectations" was rated "Does Not Meet Expectations" on the majority of performance requirements. An overall rating at the Does Not Meet Expectations level will result in establishment of a Work Improvement Plan.

H. Performance appraisal procedures.

1. An employee may submit information to the immediate supervisor for consideration prior to assessment. Employees are encouraged to complete a self-assessment using the IPPA evaluation tool.
2. The immediate supervisor must submit all assessments to the reviewing official prior to presenting the rating to the employee.
3. The reviewing official must ensure that appraisal is consistent with this procedure; and the overall rating is consistent with the individual elements of the plan.
4. An immediate supervisor must review and discuss the performance appraisal with the employee.
5. If an employee refuses to sign a performance appraisal, the appraisal must be referred to the reviewing official. The reviewing official must review the appraisal and consult with the employee and supervisor to determine why the employee refused to sign the appraisal. If the employee still refuses to sign the appraisal after this consultation, the supervisor must note on the appraisal that the employee saw the appraisal but refused to sign it.
6. Upon completion of the review with the employee, the performance appraisal will be forwarded through the chain of command to the employee's Battalion Chief to be filed. Assessments with an overall rating of "Exceptional" or "Does Not Meet Expectations" should be forwarded to the employee's Division Chief via the chain of command.
7. One copy of the appraisal must be given to the employee within 30 days of completion.

Section 59.7 Work Improvement Plan Procedures

- A. Prior to taking a performance-based personnel action, the employee must be:
1. Informed in writing of the problem;
 2. Counseled as to what corrective action to take; and
 3. Allowed an adequate and specific time-frame to improve or correct the performance deficiency.
 4. The immediate supervisor must also inform the employee that unless the employee's performance improves and is sustained at an acceptable level, the employee may be reassigned, demoted or terminated.
 5. The Work Improvement Plan must be submitted to the reviewing official prior to being reviewed with the employee.
 6. The Work Improvement Plan must be submitted to the Bureau Chief via the chain of command after being reviewed with the employee.

Section 59.8 Retention Of Performance Appraisals

- A. Performance appraisals must be kept in an employee's official record for 5 years.
- B. Performance appraisals and supporting documentation may be kept in a departmental

operating file for 5 years.

- C. One copy must be kept in the supervisory file for a period of one year.
- D. All electronic versions of the form must be safeguarded to protect unauthorized viewing.
- E. A finalized IPPA with signatures must be maintained.

Section 59.9 Appeal

The substance of an IPPA must not be the subject of a grievance. Grievances must be consistent with Article 38, Contract Grievance Procedures.

Section 59.10 IPPA Instrument Format

- A. All final PPA Forms must minimally include the following:
 - 1. Employee name
 - 2. Employee ID number
 - 3. Job title/rank
 - 4. Station/shift
 - 5. Supervisor name
 - 6. Review period beginning and ending dates
 - 7. List or indication of additional feedback sources/supplied by: e.g. EMS quality assurance surveys, medical staff, and feedback from residents
 - 8. Signatures (including electronic substitutes) from supervisor and employee (as applicable) to establish plan
 - 9. Signatures (including electronic substitutes) to document progress discussion (as applicable)
 - 10. Signatures (including electronic substitutes) from supervisor and employee to finalize performance appraisal
 - 11. Signature of the reviewing official
 - 12. List of performance expectations, ratings and narrative comments
 - 13. Developmental action plan (as applicable)
 - 14. Overall rating
 - 15. Employee comments (as applicable)

ARTICLE 60 – JOINT LABOR/MANAGEMENT EMS COMMITTEE

- A. There shall be an EMS Committee consisting of up to three (3) Union representatives appointed by the Union President and up to three (3) Employer representatives appointed by the Fire Chief. This Committee shall meet at least quarterly to discuss all matters relating to Emergency Medical Services.

Each side will select a lead representative. Upon mutual agreement of the lead representatives, the EMS committee may meet more than quarterly.

- B. The Committee shall appoint, on a rotating basis, a Chairperson, who shall serve in that capacity

for one year. The Chairperson shall be selected, alternately, by the President of the Union and the Fire Chief.

- C. Either party may refer any matter to the Committee. It is in the interest of the parties that the Committee reach consensus and provide recommendations on matters under its consideration. In the event that consensus cannot be reached, the Employer and Union representatives may provide their respective positions to the Fire Chief and the Union President for their review. In any event, each member of the Committee will be provided ten (10) business days to review and sign-off on Committee recommendations. If the Committee member does not review and sign-off on a Committee recommendation within ten (10) business days, the recommendation will be submitted to the Fire Chief and the Union President with the endorsement of the Committee.
- D. This committee shall have the authority to make recommendations to the Union President and the Fire Chief or designee. The Committee shall have no power to add or to amend any existing collective bargaining agreement between the parties or to discuss or adjust any pending grievance(s). The Employer and the Union shall exchange agenda items one week in advance of each meeting.
- E. The Union representatives on the Committee shall be considered to be on a detail if working during these meetings. Hour-for-hour compensatory time or pay at the employee's regular hourly rate shall be credited to Union representatives who attend meetings on their day off.

ARTICLE 61 – EMERGENCY MEDICAL SERVICES QUALITY IMPROVEMENT

Section 61.1 Medical Review Committee

- A. The Medical Review Committee provided for in COMAR Title 30 shall include one bargaining unit member who is an ALS provider and one bargaining unit member who is a BLS provider. Bargaining unit members assigned to the Medical Review Committee shall be assigned by the Union President.
 - a. The Union representatives on the Committee shall be considered to be on a detail if working during these meetings. Hour-for-hour compensatory time or pay at the employee's regular hourly rate shall be credited to Union representatives who attend meetings on their day off.

Section 61.2 Medical Inquiries & System Performance Inquires Involving Bargaining Unit Members

- A. Any bargaining unit employee who is asked to provide a written statement related to an EMS complaint or QA inquiry that requires the completion of an EMS Incident Referral Control Sheet shall be notified of the following: (1) the date and event number of the incident in question; and (2) the general nature of the complaint and any specific concerns to be addressed in the statement.
- B. For complaints or inquiries subject for review by the Medical Review Committee (MRC) **an employee and the employee's Union representative (if the employee chooses Union representation)** must be permitted to review **and copy**, upon scheduling an appointment at the QA office, the complaining documents **and all other relevant documents (including, but not limited to, intake notes taken during the original complaint if the complaint was not made in writing)** that were used in formulating the investigator's conclusions. **Documents shall be redacted to exclude any identifying patient protected health information.**

- C. For any complaint or inquiry where the EMS Medical Director proposes a permanent change in and/or removal of the employees pre-hospital care credentials and/or Montgomery County status, the employee and the employee's Union representative (if the employee chooses Union representation), shall be permitted to appear before the EMS Medical Review Committee and make an oral presentation and/or submit a further written statement and other information prior to the Committee's deliberations. In instances where the employee appears before the EMS Medical Review Committee, the information referred to in Sections A and B above must be provided to the employee no later than **twenty-one (21)** days prior to the Medical Review committee meeting. **No member of a volunteer Local Fire/Rescue Department or Corporation may participate in any deliberations or decision or recommendation affecting a bargaining unit employee's pre-hospital care credentials and/or Montgomery County status. This Committee's decision or recommendation shall be based upon the documents as defined in accordance with this Article and any pertinent law, policy or regulation.**
- D. Nothing in this article shall supersede the authority of the EMS Medical Director under COMAR Title 30.